



Costs Decision

Site visit made on 18 September 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 October 2019

Costs application in relation to Appeal Ref: APP/D0840/W/19/3225000 Land adjacent to Hillside Farm, Wheal Rose, Scorrier, Cornwall TR16 5DF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr I N Frost for a full (or in the alternative a partial) award of costs against Cornwall Council.
 - The appeal was against the refusal of outline planning permission for the erection of two dwellings.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance ('the PPG') advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant's costs claim references the first and seventh bullet-points of paragraph 049 of the PPG: namely (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and (ii) not determining similar cases in a consistent manner. The common denominator to both (i) and (ii) is the appellant's perception that in the light of the numerous other housing permissions granted in Wheal Rose, including close to the appeal site, he has not been treated fairly.
4. As regards (i), although I differ from the Council's judgement as regards the appeal site, I recognise that land on the north east side of the road ('Westway') does have a different character than that of the sites opposite. This difference is due to a combination of the appeal site's individual characteristics and the fact that on this side of Westway the settlement is more rural in character with existing development more dispersed and restricted.

5. Having had regard to all that I have seen and read I have concluded that these differences are not such as to justify the withholding of outline permission. However, this does not equate with the Council's contrary planning judgement and overall appraisal being so unsound as to be unreasonable.
6. These factors, including the facts that the nearest part of Hillside Farm is set well back from Westway and that views of it are substantially screened by vegetation give at least some support to the Council's planning judgement that the appeal site is unsuitable for residential development. In my Decision I have explained in some detail why I have found that the weight of evidence is in favour of the appellant, but this is not the same as saying that in some respects this evidence did not pull in opposite directions.
7. In respect of (ii), the arguments are essentially the same. The Council argues that in each case the application site has to be judged on its individual merits and whilst I have indicated in my Decision that the officer's report places too much weight on Westway being a defensible limit to additional development, only in the case of site 3, Land adjoining Garlands, do I consider that comparisons with the appeal site significantly undermine the refusal. Even in that case there are differences to the appeal site and its context, albeit I do consider the comparison to materially weigh in the appellant's favour.
8. I therefore find, on balance, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. The application for an award of costs is accordingly refused.

Martin Andrews

INSPECTOR