The Planning Inspectorate

Costs Decision

Site visit made on 19 February 2020

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

Costs application in relation to Appeal Ref: APP/D0840/W/19/3242301
Land to the south of Noels Meadow, Mount, Bodmin PL30 4DG

- 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 P Millward for a full award of costs against Cornwall Council.
- The appeal was against the refusal of construction of 5 detached dwellings.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Paragraph 049 of the NPPG[1] says that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Among the various examples of unreasonable behaviour listed is *persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.*

3. In this case, the Committee Report[2] recommended approval of the planning application. The report draws attention to a previous Appeal Decision[3] which considered a very similar proposal and concluded that development of the site would comply with Policy 3 of the Local Plan. It is stated in the Committee Report that *in view of the Inspector's findings, it would be unreasonable to conclude otherwise that this proposal does not represent a suitable rounding off the site in accordance with Policy 3 of the Local Plan.*

4. The Committee did not follow this recommendation and voted to refuse the application. I note the Council's point that the Committee was not compelled to follow the officer's recommendations and was entitled to reach its own view on the proposed development. Nevertheless, however the decision to refuse the application was arrived at, Paragraph 049 of the NPPG indicates that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal. It appears from the Minutes that this was pointed out at the meeting.

[1] National Planning Policy Guidance (Appeals, March 3 2014).
[2] East Sub-Area Planning Committee 14 October 2019.
[3] APP/D0840/W/18/3194168.

5. I noted in my main decision that the circumstances of the current appeal are very similar to those of the previous appeal. Both appeals relate to the same site, the same development plan policies apply and, based on the information provided, little appears to have changed on the ground.

6. I accept that there is a degree of subjectivity in what amounts to infill under Policy 3 of the Local Plan. However, the previous Inspector provided a very clear indication of how the policy should be interpreted in light of the above circumstances. Although the Council's Appeal Statement provides a relatively detailed explanation of why it considers that the proposal would conflict with Policy 3, this mainly addresses points which the previous Inspector had already reached a decision on. The Council does not introduce any fundamentally different evidence or planning arguments to justify its decision to refuse the application in light of the previous Appeal Decision.

7. Taking into account the guidance within the NPPG, it therefore seems to me that the Council failed to adequately substantiate its reason for refusal. Unreasonable behaviour has therefore been demonstrated. The appellant has been faced with the unnecessary and wasted expense of lodging the appeal and hence a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, an all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cornwall Council shall pay to Mr P Millward, the costs of the appeal proceedings described in the heading of this decision.

9. The applicant is now invited to submit to Cornwall Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Colin Cresswell

INSPECTOR