
Costs Decision

Site visit made on 25 February 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2020

Costs application in relation to Appeal Ref: APP/D0840/W/19/3242533 Polstraul, Trewalder, Delabole, Cornwall PL33 9ET

- 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 S Straffon for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for a live/work unit.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. A primary concern of the Council was that the proposal did not accord with the settlement hierarchy set out in Policy 3 of the Cornwall Local Plan 2010-2030 (LP) which is, in part, linked to accessibility. The officer report sets out reasons for this. There is additional supplementary evidence in the Council's appeal statement that they see the site as open countryside and not as previously developed land, which I do not find contradictory. The Council's arguments in that regard, supported by maps and photographs, were not without substance.
4. The Council has also explained how they did not consider a recent case in Port Isaac¹ to be comparable as that site was found to have an affinity with the settlement. Whilst I have not agreed with the Council's position in terms of this appeal site being in the countryside, that judgement must be made on a case by case basis, so the Council did not behave unreasonably in this regard.
5. Having concluded that the site was outside the settlement of Trewalder, it was not unreasonable for the Council's officer report to go on to consider whether the proposal may otherwise be appropriate under LP Policy 7, relating to housing in the countryside. Such would require demonstration of an essential need for the location and the Council found that the appellant's business needs would not qualify on that basis.
6. It is fair to say that the Council has not provided a detailed response to the arguments regarding the appellant's travel patterns and the like. However, the

¹ Appeal Ref: APP/D0840/W/18/3207407

Council does suggest that the appellant's arguments do not outweigh their concerns over the broad location.

7. The Council's officer report also discusses the support for live/work units that exists in LP Policy 2.3(h), but concludes that in the absence of support from Policy 3 which identifies suitable locations for development, there is a conflict with Policy 2 read as a whole. Therefore, although I have balanced the various policies differently, I find no substantive evidence that the Council did not consider the development plan as a whole.
8. The Council's appeal statement may provide evidence on various matters that do not go to the heart of the matter in dispute, and seeks to argue the Council's position in a slightly different way to the officer report. There is also discussion within the Council's statement about potential environmental impacts, but it does not seek to amend or introduce an additional reason for refusal. I find that the other commentary is provided as background information or in response to the appellant's arguments. In any event, that the Secretary of State has confirmed that a full Environmental Impact Assessment is not required does not mean that there are no environmental impacts associated with the proposal.
9. I understand that the appellant believes that the Council has not treated like applications in a like manner. However, each proposal must be considered on its own merits and reasons have been provided to explain why, in the Council's view, the cases are different.
10. I have found no justification for the Council's recommended condition setting a proportion of business and residential floor space. However, given the limited extent to which the appellant argues that the condition is not appropriate, I do not find that he has been put to wasted expense in the appeal process.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Bale

INSPECTOR