The Planning Inspectorate

# Costs Decision

Site visit made on 3 June 2020

**by Matthew Jones BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 June 2020**

**Costs application in relation to Appeal Ref: APP/D0840/W/19/3243009**
**Land Rear of 31 Boscaswell Village, Lower Boscaswell, Pendeen TR19 7EP**

- 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 J Manser of TJ Cornwall Ltd for a partial award of costs against Cornwall Council.
- The appeal was against the refusal of planning permission for an affordable housing-led residential development of 6 dwellings.

## Decision

1. The application is refused.

## Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably where this has directly caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The applicant submits that the Council failed to address the commenced development at the appeal site both before and after the refusal of the planning application. The Council's decision may have been different had it had due regard to this matter as a fallback position. The Council's subsequent failure to address the issue during the appeal unreasonably compelled the appellant to make further submissions at the final comments stage.

4. The Council accepts that it failed to address the fallback when refusing planning permission. However, the evidence suggests that the detailed substance of the appellant's argument with regard to this matter, and the extent to which it should influence assessment of the proposal, arose principally at the appeal.

5. The Council has provided detailed reasons why the fallback would not have altered its decision or the scope of its case during the appeal. It has consistently addressed issues of landscape and historic character less affected by the fallback, such as the overall loss of the smallholding, and views from a Public Right of Way. That the Council did not refer to the fallback argument during the appeal was not indicative of unreasonable behaviour in my view. Rather, it was an issue for me to examine in my planning assessment, as was the applicant's chosen response to this omission at the final comments stage.

6. Given such, I see no clear reason to conclude that the appeal could have been avoided or narrowed in scope had the Council directly addressed the fallback position at any stage. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, is not demonstrated.

*Matthew Jones*

INSPECTOR