
Costs Decision

Site visit made on 26 June 2021

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 18 August 2021

Costs application in relation to Appeal Ref: APP/D0840/W/21/3270728 Plot of Land between Trevennel Old Cottage and Homelands, St Just in Roseland, Cornwall TR2 5HY

- 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 & Mrs Andrew Robinson for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the removal of outbuildings and concrete hardstanding and erection of an open market infill dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, 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 process¹.
3. In this regard, the Applicants maintain that the Council has acted unreasonably by preventing development from proceeding that should have been permitted and, in this respect, have misapplied adopted policies from the development plan. The PPG² indicates that Local Planning Authorities will be at risk of a substantive award of costs being made against them if, amongst other things, they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. In essence, the application for an award of costs is based on the Appellants' contention that the Council failed to have regard to the provisions of the development plan when taken as a whole by ignoring the adopted policies of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan).
5. As will be seen from the appeal decision, I have found that there were substantive reasons for allowing the appeal when the appeal scheme was assessed against the policies of the development plan when taken as a whole.
6. Whilst it will be seen that I have found that the proposed development would not strictly accord with Policies GP3 and HO4 of the Roseland Neighbourhood

¹ Paragraph: 030 Reference ID: 16-030-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

Development Plan (the RNDP), the proposal would accord with a number of other policies which comprise the RNDP and would comply with the provisions of the Local Plan when taken as a whole. In this regard, I have found that whilst policies of the development plan can often pull in different directions, greater weight should be applied to the scheme's compliance with the policies of the Local Plan given its more recent adoption and that weight should be attached to the proposed development's accordance with policies of the RNDP which concern Village Character and Design and Character across the Roseland Plan Area.

7. It is acknowledged that the Council Officer's Report did provide some details of those parts of the Local Plan which required consideration in the determination of the planning application. Furthermore, it is noted that the Council's statement has confirmed those details which are included with the supporting text to the policies of the Local Plan and which refer to Neighbourhood Plans. However, it does not appear from the Council's statement that provisions of policies which form the Local Plan were considered together with the policies of the RNDP. In this regard, the Council's statement focuses on the acknowledged conflict with a limited number of policies of the RNDP, but appears to fail to give any consideration or weight to the scheme's accordance with Policy CV1 or GP2 of the RNDP, nor any weight to the appeal proposal's compliance with Policies 3 and 21 of the Local Plan.
8. In light of the above, given that it does not appear that the Council have considered the proposal against those parts of the development plan that would support a new dwelling at a location such as the appeal site, in my view the Council have misapplied adopted policies of the development plan when taken as a whole and thereby have prevented development from proceeding that should have been permitted.
9. For the above reasons, I find that the Council have failed to assess the proposal against the provisions of the development plan when taken as a whole. The Council has failed to provide details or submissions as to why greater weight must be applied to any conflict arising from Policies GP3 and HO4 of the RNDP rather than to the scheme's compliance with other policies of the RNDP and the Local Plan.

Conclusions

10. For the reasons outlined above, I conclude that the Council has acted unreasonably, and that the Applicants have incurred unnecessary and wasted expense in the appeal process. Accordingly, a full award of costs is justified in this instance.

Costs Order

11. 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, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cornwall Council shall pay to Mr and Mrs Andrew Robinson the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The Applicants are 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.

A Spencer-Peet

INSPECTOR