



Costs Decision

Site visit made on 10 August 2021

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

**Costs application in relation to Appeal Ref: APP/D0840/W/21/3275523
The Old Nursery, Higher Penponds Road, Penponds, Camborne, Cornwall
TR14 0QG**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Camborne, Redruth and Hayle Methodist Circuit for a full award of costs against Cornwall Council.
- The appeal was against the refusal of the Council to grant planning permission for erection of two dwellings and formation of new access.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG), advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It adds 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; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 3. The planning application was refused by the Council's planning committee, contrary to officer recommendation. The single reason for refusal set out that the site provided an important green setting for Penponds and held a visual amenity value as an open space area. However, the committee report explained that the site was not open space and the subsequent minutes of the committee meeting indicate that this point was reiterated during the committee's discussion. My appeal decision similarly concludes that the site does not comprise open space, having regard to the National Planning Policy Framework which was relied upon by the Council.
 4. The Council's appeal statement offered some limited reasoning as to why the site was considered to provide an important setting for Penponds and why it held a visual amenity value. This primarily related to providing a visual link to the wider rural surroundings. Nevertheless, the situation described in the appeal statement exaggerates the land's context to such an extent that it amounts to inaccurate assertions about the site which fail to support its stated visual importance.
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5. It is therefore concluded that as a whole, the Council's reason for refusal comprised inaccurate assertions about the proposal's impact, which was unsupported by any objective analysis. It is also apparent from the appeal decision that this prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and other material considerations, such that an appeal could have been avoided altogether.
6. In light of the above, it is found that unreasonable behaviour by the Council, resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

7. 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 Camborne, Redruth and Hayle Methodist Circuit, the costs of the appeal proceedings described in the heading of this decision.
8. 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.

C J Ford

INSPECTOR