



Costs Decision

Site visit made on 21 September 2021

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2021

Costs application in relation to Appeal Ref: APP/D0840/W/3277598 Sennen Rise, Mayon Farm, Sennen TR19 7AD

- 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 Robertson for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the construction of two holiday units.
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Decision

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

Reasons

2. The appellant refers to a previous Appeal Decision¹ which considered a proposal for two dwellings on the site. Although this appeal was dismissed, it is contended that the Inspector made points which the Council failed to recognise in its consideration of the current appeal.
3. Paragraph 8 of the previous Appeal Decision says that the site is located within the built form of Mayon Farm, whereas the Council's first reason for refusal says that the proposal would result in an undesirable extension and intrusion of residential development into the countryside. However, the previous Inspector made it clear in paragraph 12 that Mayon Farm is not a settlement in terms of the development plan. He continues, in paragraph 13, to explain that the Local Plan defines open countryside as being the area outside settlements, and assesses the proposal against Policy 7 on that basis. Therefore, the Inspector's comments make it evident that the site should be treated as being within the countryside for planning purposes.
4. Hence, the Council's second reason for refusal, which relates to character and appearance, reasonably describes the site as being within the countryside. Although the Officer Report doesn't go into great detail about the harm that would be caused by the development, it does make the point that the location of the site, on the edge of the built form, contributes positively to the rural landscape and the proposal would result in an extension into it. It goes on to state that this would result in an adverse impact. The Council has therefore provided a reasonable explanation to substantiate its reason for refusal.

¹ Appeal Decision: APP/D0849/W/20/3250653

5. The main emphasis of the Council's first reason for refusal is that the site is not in an accessible location and so would not represent sustainable rural tourism. Indeed, it refers to there being a lack of accessibility to services and facilities available locally, whereas in paragraph 29 of the previous Appeal Decision, the Inspector says the proposal would be in a location which provides convenient pedestrian and cycle access to a range of services and facilities. (I note that that limited weight was attached to the benefits and, in paragraph 30, it is ultimately determined that the proposal was not sustainable).
6. The previous Inspector's comments are made as part of a balancing exercise which weighs up the benefits of the proposal against harm. In that case, harm was derived from conflict with the locational policies of the Local Plan. As the proposal was for open-market housing, the most relevant locational policies were Policies 3 and 7 of the plan.
7. The current appeal is somewhat different in that it is for holiday use and the most relevant locational policy is Policy 5 of the Local Plan, which relates to business and tourism. Very specifically, it only allows proposals where they *would be of an appropriate scale to their location and to their accessibility by a range of transport modes. Proposals should provide a well-balanced mix of economic, social and environmental benefits.* Although the previous Inspector covers similar ground, it was not necessary for him to consider the test required by Policy 5 in relation to these matters. Given that access to a range of transport modes is a specific requirement of policy, it seems to me that the Council took a reasonable approach in re-assessing the suitability of the site to accommodate the proposed holiday units. This is not a case of preventing development that should have clearly been permitted.
8. I note the appellant's point that the wording of the first reason for refusal is somewhat confusing as there is no specific requirement in policy for holiday accommodation to be located in rural service centres or in Sennen Cove. However, the reason for refusal does not turn on this matter. The Council would still have needed to reach a conclusion on whether the proposal was suitably located in the context of Policy 5, and the Officer Report explains the reasoning with regard to this matter clearly enough.
9. While the Council assessed the proposal against general housing policies (including Policy 3 and its definition of rounding off) this was not determinative in the outcome of the Council's decision. It seems to me that these policies were only listed in the reasons for refusal to indicate that the proposal could not be justified by them. The Officer Report makes it clear enough why the Council considered the proposal to be harmful.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR