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## Costs Decision

Site visit made on 6 September 2022

**by S Harrington MA MRTPI**

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

**Decision date: 02 November 2022**

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### **Costs application in relation to Appeal Ref: APP/D0840/W/22/3296639 Land Rear Of Lydford, Carnkie, Redruth TR16 6RZ**

- 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 Liam Ducker for a full award of costs against Cornwall Council.
  - The appeal was against the refusal of planning permission for the erection of two dwellings, new access and amenity areas.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (the PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place in relation to preventing development from proceeding that should have been permitted and misapplying and ignoring policies of the development plan. Furthermore, the applicant states that the Council failed to provide objective analysis and have introduced additional evidence at the appeal stage.
4. The Officer Report (OR) sets out policies that the Council rely on within their decision including Policies 3 and 21 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP). The Council also sets out an assessment of the proposal and how this would conflict or accord with relevant adopted planning policies. Furthermore, whilst brief, heritage assets are identified, and commentary is provided within the OR in relation to the harm to the heritage assets from the proposal.
5. Notwithstanding, the reason for refusal set out in the decision notice refers only to certain parts of Policy 3 of the LP (infill or rounding off), which whilst substantiated within the Officer Report, does not refer to previously developed land adjoining a settlement which the Council appear to accept within the body of the OR accords with Policy 3. In respect of Policy 21, I have also found conflict with this policy, and find the Council has provided sufficient analysis in the OR on this matter.

6. However, an award of costs can only be made if unreasonable behaviour leads to unnecessary or wasted expense, and I do not believe that to be the case here. The Council did not feel able to grant permission, with substantive reasoning being provided and it has been necessary therefore, for this matter to be decided through the appeal process. Notwithstanding my comments in relation to Policy 3, the decision reason provides sufficient evidence for the appellant to be clear on the Council's main concerns for the submission of the appeal. Therefore, had the Council referred to Policy 3 in its entirety, the arguments advanced by it indicate that the application would still clearly have been refused. As such, the appeal would still likely have been lodged. The applicant has therefore not incurred any unnecessary expense.
7. In relation to additional evidence provided by the Council at the appeal stage, the Council's Appeal Statement(AS) clearly states that a plan forming part of the AS was unadopted, and did not seek to put any weight to this plan in the decision but utilise it for illustrative purposes to illustrate the context of the appeal site. I find no unreasonable behaviour in this regard.
8. Taking all the above points into account, I find that although the Council has exhibited unreasonable behaviour in respect of the reason for refusal referring to only selected elements of Policy 3 contrary to the Council's analysis within the OR, this has not resulted in the applicant incurring unnecessary or wasted expense, as described in the PPG. Furthermore, I have found that the appeal has been necessary and given my findings in the appeal decision, the Council has not prevented development that should have been permitted. The application for costs is therefore refused.

*S Harrington*

INSPECTOR