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## Costs Decision

Site visit made on 6 December 2022

**by S Harrington MA MRTPI**

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

**Decision date: 11 January 2023**

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### **Costs application in relation to Appeal Ref: APP/D0840/W/22/3297450 Land South of Trewedna Lane, Perranwell Station, Truro TR3 7PQ**

- 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 Morris for a full award of costs against Cornwall Council
  - The appeal was against the refusal of planning permission for residential development of nine dwellings.
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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 has made an application for a full award of costs in relation to the Council exhibiting unreasonable behaviour, with particular regard to persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
4. The applicant states that a previous appeal<sup>1</sup> was dismissed by the Inspector 'purely because the development was not accompanied by a suitable mechanism to secure the affordable housing units in perpetuity'.
5. I acknowledge that the current appeal associated with this costs application is identical to the earlier proposal in all respects, aside from a draft S106 agreement accompanied the application, which, following the decision of the Council, has now been finalised. Even though the Council Officer had recommended that the application be approved, Members are entitled to arrive at a different decision to Officers, as is the case here.
6. I note that the basis of the Council's suggested reasons for refusal replicates that of the earlier refusal that was dismissed at appeal. However, the previous Inspector had made a clear finding on issues of character and appearance. Notwithstanding, the Council were in receipt of additional information in the form of a Landscape and Visual Response and given this additional information

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<sup>1</sup> APP/D0840/W/21/3269404

which raised additional concerns in relation to character and appearance, the replication of this reason for refusal does not result in unreasonable behaviour.

7. Furthermore, whilst I have found that the current appeal should be allowed for the reasons set out within that decision, I note that the previous Inspector did not go as far as to suggest that the lack of a suitable mechanism to secure affordable housing units in perpetuity was the sole reason for dismissal of the appeal, more that the lack of the mechanism prevented the Inspector from allocating any weight to the affordable housing provision in the planning balance. While the Inspector did make a clear finding on issues of character and appearance, the Inspector did not detail what weight he would have afforded to the affordable housing, or indeed if this would have resulted in a differing decision given an identified conflict with the development plan in terms of loss of Grade 2 agricultural land.
8. Taking all the above points into account I find that unreasonable behaviour, as described in the Planning Practice Guidance, has not been demonstrated. In the absence of such unreasonable behaviour, there has been no wasted expense in the appeal process.

*S Harrington*

INSPECTOR