



Costs Decision

Site visit made on 12 June 2023

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2023

Costs application in relation to Appeal Ref: APP/D0840/W/22/3312887 Land South West of Tregenna Barton, Penstraze, Truro TR4 8JA

- 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 Cornwall Council for a full award of costs against Mr T Snell.
 - The appeal was against the refusal of planning permission for outline application for development of land to provide residential building plots.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that 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 process.
3. The Council's case fundamentally rests on the applicant's failure to substantiate the scheme's compliance with the Council's settlement strategy in terms of the development's location and proximity to accessible modes of transport, as well as a failure to assess the character of the immediate area. In the Council's view this has resulted in the appellant acting unreasonably without sound grounds for appeal, thus leading to wasted and unnecessary expense in preparing its appeal submission.
4. In applying the terms of Policy 3 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (adopted 2016) (the Local Plan), you are required, in the first instance, to identify whether a site relates to a settlement, having regard to its form, shape and boundaries. Following this, an assessment of whether the scheme meets a set of requirements must be made, including rounding off and infilling. Therefore, applying Policy 3 requires a series of judgements, that could include assessing the physical characteristics surrounding a site, as well as the grain, morphology, size and shape of a built-up area.
5. The appellant has carried out a detailed assessment of how the site relates to the wider built-up frontage, of what it considers to be, the settlement of Penstraze, as well as the strategic development at Langarth Garden Village. Reference has also been made to previous approvals for dwellings made by the Council in the locality. The appellant has also provided details of the location of a cycle trail, local bus services and improved facilities that will accompany the development of Langarth Garden Village.

6. Although I have come to a different view in terms of the appeal site's location as well as its accessibility to sustainable transport modes, the appellant has provided reasons to support its view that the scheme accords with policy, with additional reference to material considerations. I do not consider that the appellant has been unreasonable pursuing those reasons.
7. Following the submission of the appellant's statement of case a revised Neighbourhood Plan was published. Policy H1, relating to new housing, requires proposals to be within the urban extent boundary. Outside of this, development will be expected to be driven by meeting local housing need of an appropriate scale that rounds off or infills the current urban extent. The maps showing the urban extent boundary do not encompass the appeal site, therefore the proposal would fail to accord with Policy H1.
8. Notwithstanding this, the appellant's case, including the rationale relating to the site's inclusion within a settlement, was submitted prior to the publication of the revised Neighbourhood Plan. The more specific locational requirements of Policy H1 would not therefore have been known. Even though Policy H1 now carries more weight by virtue of its recent publication, the appellant is still entitled to refer to Policy 3 of the Local Plan along with other material considerations which could be deemed to advance his case.
9. In respect of the effect on the surrounding countryside, the appellant has not ignored the appeal site's location close to rural fields. The case put merely, indicates that the proposal's siting, close to the built edge of a small cluster and the site's physical boundaries, in the form of mature landscaping, removes any clear sense of visual encroachment into the surrounding countryside. Moreover, and even though my appeal decision concludes differently on this issue, the construction of buildings on undeveloped land in rural locations, does not necessarily result in harm to local character. In this regard, the appellant has described the visual effect the proposal would have on the surroundings, and in pursuing that point, he has not acted unreasonably.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

RE Jones

INSPECTOR