
Costs Decision

Site visit made on 18 July 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2023

Costs application in relation to Appeal Ref: APP/D0840/W/22/3310311 Stables to the west of Fairview Farm, Pennance Road, Lanner, Redruth TR16 5TF

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Kaczmarek for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the conversion and extension of existing domestic stables into a residential dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicants submit that the Council has acted unreasonably by refusing the application based on the delineated settlement boundary for the settlement of Lanner and supporting text associated with policy two of the Lanner Neighbourhood Plan 2017-2030, March 2019 (LNP). It is contended that the Council sought to rely on a policy that was not relevant to the proposal. It is further asserted that the decision runs contrary to other recent decisions made by the Council within the LNP area.
4. PPG further indicates that local planning authorities will be at risk of an award being made against them if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and by not determining similar cases in a consistent manner.
5. The Council's decision notice contains one refusal reason which refers to several policies within the LNP, policies within the Cornwall Local Plan Strategic Policies 2010-2030, November (2016) (CLP) as well as citing paragraphs of the National Planning Policy Framework (the Framework).
6. It will be seen from the reasoning in my decision that the proposal involved considerable analysis of the interaction between the respective policies of the LNP, CLP and the Framework in relation to rural housing. It was necessary to

establish how the identification of a settlement boundary in the LNP affected the application of other policies in the CLP. Although I ultimately agreed with the applicants' analysis in this respect on the second main issue, given the supporting text to the LNP, there was some ambiguity.

7. Whilst a comparison has been made with the application of policies in the St Agnes Neighbourhood Development Plan, that is a different policy document and the policies contained within it are worded differently.
8. Hence, I consider there was some complexity to the policy context in this case, such that it was not immediately clear that the location of the development was acceptable having regard to the development plan policies. Moreover, the relevant development plan policies in this regard required judgements to be exercised, for example whether the appeal site constituted previously developed land immediately adjoining a settlement of a scale appropriate to its size and role.
9. As such, notwithstanding the planning officer advice in this case, I do not consider that the Council was unreasonable to take a different view, and I do not consider that unreasonable behaviour as defined in the PPG in this respect has been shown.
10. Furthermore, although mention is made of other recent decisions made by the Council in the same neighbourhood plan area, no specific examples are given in the costs application. This inhibits a comparison with the circumstances of the appeal proposal. Consequently, the evidence provided does not demonstrate that the Council has acted unreasonably by not determining similar cases in a consistent manner.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. As such, the partial award of costs sought is not warranted.

Helen O'Connor

Inspector