



Costs Decision

Site visit made on 5 September 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Costs application in relation to Appeal Ref: APP/D0840/W/23/3317078 79 North Roskear Road, Camborne TR14 8PX

- 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 Ian Jepson for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of permission in principle for the erection of a single dwelling.
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Decision

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

Preliminary Matter

2. The name of the applicant on the application form is Mr Ian Jesop, whereas all other documents, including the Council's decision notice, refer to the applicant as Mr Ian Jepson. The applicant has confirmed that the application was completed with a typographical error and that the applicant was Mr Ian Jepson. The Council determined the application on that basis and, accordingly so have I.

Reasons

3. 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.
4. The PPG includes examples of unreasonable behaviour by planning authorities that may lead to a substantive award of costs. Amongst other things, this can include, 'preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations' and 'not determining similar cases in a consistent manner'.
5. The applicant contends that the Council has behaved unreasonably due to it preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations; made fundamental errors in how it has assessed the permission in principle application; and not determining similar cases in a consistent manner. The Council refutes these claims.
6. It is evident from my decision letter that I fundamentally concur with the position that the Council has taken in refusing permission in principle in relation to the location and amount of development that is proposed.

7. The Council clearly explained its approach and reasoning in its delegated report and appeal statement. Whilst reference was made to detailed plans and distances, this provides context for the Council's reasoning. The Council based its decision on the evidence before it and I do not find that this amounts to unreasonable behaviour. It does not suggest that it misapplied the relevant legislation relating to permission in principle applications or that without such references the decision would have been different.
8. In my main decision I find that, in consideration of the principle of the proposal, it would not harm the living conditions of neighbours and could provide acceptable living conditions for future occupants. However, whilst matters including regarding design and drainage would fall to be considered at technical details consent stage, it is not unreasonable for the Council to consider in general terms whether as a matter of principle a site's location would have an acceptable impact on the character and appearance of the area, living conditions or its location within the Critical Drainage Area (CDA) is suitable for the proposed development.
9. The route of a permission in principle decision¹ must be made in accordance with relevant policies in the development plan, including material considerations such as the Framework. In this case an assessment was made against relevant development plan policies and the Framework.
10. The PPG on decision making states that Local Planning Authorities should draw on relevant existing information sources and tools to support decisions on whether a grant of permission in principle is appropriate. Furthermore, whilst having regard to Article 5D of the Town and Country Planning (Permission in Principle) Order 2017, there was no reason why the applicant could not volunteer additional information to support decision making², in particular to assist with the assessment of the location in the CDA.
11. I acknowledge that other applications for permission in principle have been approved by the Council, including within the CDA, but these are different proposals with a different context making comparison difficult. Furthermore, the Council is not strictly bound by other planning decisions which will also have been determined depending on their specific facts.
12. This is not an obvious example of a Local Planning Authority being inconsistent in its approach to similar cases, or delaying development which should have clearly been permitted. In any event, the appeal is necessarily determined on its individual merits and on the basis of the evidence before me. It does not have any bearing on my finding that the Council's behaviour in how it has determined the appeal application has ultimately not been unreasonable.
13. It follows that the Council did not act unreasonably with regard to consistency in decision-making. There has been no unreasonable behaviour on the Council's part in terms of how it approached the determination of the application. The appeal could not have been avoided and as a result unnecessary or wasted expense has not been incurred by the applicant in submitting it. The PPG advises that, where Local Planning Authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.

¹ Paragraph: 011 Reference ID: 58-011-20180615; Revision date: 15 06 2018

² Paragraph: 043 Reference ID: 58-043-20170728; Revision date: 28 07 2017

14. For the reasons given, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that, therefore, an award of costs is not justified.

J White

INSPECTOR