



Costs Decision

Site visit made on 3 October 2023

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2023

**Costs application in relation to Appeal Ref: APP/D0840/W/23/3318435
Pendragon, Road Along Trye Valley To Newmill, Newmill, Cornwall
TR20 8UU**

- 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 and Mrs G Hughes for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for conversion of existing ancillary building to form a holiday unit.
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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 (the 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 application contends that the Council acted unreasonably through:
 - a) preventing or delaying development which should clearly have been permitted, having regard to its accordance with the development plan, national policy, and any other material considerations; and,
 - b) not determining similar cases in a consistent manner.
4. Both of these are cited in the PPG as examples of behaviour that may give rise to a substantive award of costs against a local planning authority¹.
5. With regards to the first issue, the applicant states that the application submission and appeal documentation set out how the proposal would comply with development plan policy and national advice. However, in determining the proposal, the Council had to apply an element of subjective judgement in deciding whether the scale of the proposal was commensurate with its accessibility by a range of transport modes. The Council set out its rationale for its conclusions in its delegated report and appeal statement. Although I found differently, the Council did not act irrationally in coming to its decision, and provided a cogent defence in support of its position. Therefore, I do not find the Council to have acted unreasonably in refusing permission, when considering the individual merits of the application.

¹ Paragraph: 049 Reference ID: 16-049-20140306

6. On the second issue, the applicant contends that the Council's decision was inconsistent with a number of other examples of similar developments that had been approved in the locality. In particular, it is argued that the other proposals were approved on the basis that the same bus service made them reasonably accessible to a range of transport options.
7. I saw some of the other examples during my site visit, and it was clear that their level of accessibility by a range of transport options was very similar to the appeal site. However, the evidence does indicate that there were distinguishing factors to differentiate the balance of considerations that was necessary in each case. The nearest case (example C) involved the conversion of a building within the core of the settlement to a permanent dwelling, where the Council was satisfied that the proposal complied with Policy 7 of the Local Plan.
8. Example B, which was allowed on appeal, was for the conversion of a livery stable to provide accommodation for Nordic walking holidays. I have limited information regarding the details of the proposal, but the evidence suggests that the accommodation contained communal elements, so would not have comprised a dwellinghouse. I note that the Inspector's letter did not reference Policy 7 of the Local Plan. In the case of the appeal before me, part of the Council's objection was on the basis that the proposal would be contrary to Policy 7, as it would result in a dwelling in the countryside, albeit restricted by an occupancy condition. I found that the proposal did not fully comply with this policy, but gave greater weight to Policy BJ1 of the Neighbourhood Plan. The Neighbourhood Plan was not part of the development plan when the Council made its decision, so did not carry the same weight at that time.
9. The other examples are somewhat further afield, where it could reasonably be argued that different circumstances applied. I acknowledge that the Council resolved to approve a proposal for holiday accommodation very close to the site during the course of the appeal, but this was under the different policy regime, which now includes the Neighbourhood Plan. This decision had not been made when the Council determined the appeal proposal, so could not have been a consideration.
10. The Council did not provide any commentary on the other approvals in its delegated report or appeal statement, other than to say that each application should be considered on its own merits. Whilst this is true, recent decisions on similar proposals in close proximity are an important material consideration. It would have been helpful if the Council had demonstrated that they had been considered in its decision-making process. I therefore have sympathy with the applicant's perception of inconsistency. However, I have discerned differences between the nature of the proposals, the locations of the other examples, and the prevalent policy regimes when the decisions were made. As a result, none are so similar as to render the decision on the application to be entirely contradictory. Consequently, I find that the Council's refusal did not amount to an unreasonable inconsistency in decision-making.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Nick Davies
INSPECTOR