



Costs Decision

Site visit made on 18 December 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Costs application in relation to Appeal Ref: APP/D0840/W/23/3316689 Sunnyside, A3078 Between Chy Mor and Trethem Mill, Trethewell, St Just in Roseland, Cornwall TR2 5JE

- 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 Chris White and Sophie Hare-Scott for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for open market infill dwelling within garden area.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

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. Moreover, the PPG indicates that Local Planning Authorities will be at risk of a substantive award of costs being made against them if, amongst other things, 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.
3. The applicants contend that the Council behaved unreasonably by preventing development that should have been permitted and, in this respect, have misapplied adopted policies from the development plan. The applicants maintain that the Council failed to have regard to the provisions of the development plan when taken as a whole because it ignored adopted policies of the Cornwall Local Plan Strategic Policies 2010-2030 (the CLP).
4. I have found, within the appeal decision, that there were substantive reasons for allowing the appeal having assessed the proposed development against the policies of the development plan when taken as a whole.
5. Although I have found that the proposed development would not strictly comply with Policies GP3 and HO4 of the Roseland Neighbourhood Development Plan 2015-2030 (the RNDP), it would accord with other policies of the RNDP and would comply with the provisions of the CLP when taken as a whole. Consequently, even though policies of the development plan can pull in different directions, greater weight should be applied to the scheme's compliance with the policies of the CLP given that it is a more recently adopted

plan and weight should be attached to the appeal scheme's accordance with Policies GP2 and LA1 of the RNDP.

6. It is acknowledged that the Council has provided some details of those parts of the CLP which required consideration, that the Neighbourhood Plan was developed in knowledge of the then emerging Local Plan and a Conformity Statement has been produced once the CLP was adopted. Nevertheless, the Council appears to fail to give consideration or weight to the appeal scheme's accordance with Policies GP2 and LA1 of the RNDP or to give any weight to the proposal's compliance with Policy 3 of the CLP.
7. Given that the Council has not considered the proposal against those parts of the development plan that would support a new dwelling at the appeal site, the Council has misapplied adopted policies of the development plan when taken as a whole. The Council has thereby prevented development from proceeding that should have been permitted.
8. I therefore find that the Council has acted unreasonably, and that the applicants have incurred unnecessary and wasted expense in the appeal process. Accordingly, a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cornwall Council shall pay to Chris White and Sophie Hare-Scott, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicants are now invited to submit to Cornwall Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

J White

INSPECTOR