



Costs Decision

Site visit made on 16 April 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2024

Costs application in relation to Appeal Ref: APP/D0840/W/23/3328767 Land Adjoining Duck Lane, Trematon, Saltash, PL12 4RT

- 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 Dean Scantlebury, DS Developments (SW) Ltd for a full award of costs against Cornwall Council.
- The appeal was against the refusal of planning permission for a Rural Exception Site comprising of four detached open market bungalows (1 x 4-bed with double garage, 3 x 3-bed with integral garage) and two detached affordable bungalows (2 x 3-bed, 1 x social rent and 1 x shared ownership) and two semi-detached bungalows (2 x 2-bed, 2 x social rent) along with parking spaces, access road, landscaping and open space area.

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 applicant claims that the Council has acted unreasonably with regard to issues arising from the merits of the appeal, and that Members failure to accept Officers views on affordable housing need was lacking in a rational justification or sound evidence. Furthermore, the applicant suggests the Council did not make their decision in accordance with the development plan as a whole.
4. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. The Council's first reason for refusal refers to three policies, those being Policy 1 of the Cornwall Local Plan Strategic Policies 2010–2030 (LP), and policies C1.6 and T1 of the Climate Emergency Development Plan Document 2023 (CEDPD).
5. Section 38 of the Planning and Compulsory Purchase Act 2004 (as amended) defines the development plan as including adopted development plan documents (taken as a whole) and neighbourhood development plans. As such as well as the LP, both the Saltash Neighbourhood Development Plan (NP) and the CEDPD (being, contrary to the applicants' comments, the most recent development plan document) forms part of the development plan, and it will be seen from the main decision that I agree with the Council that there is conflict with CEDPD policies.

6. LP Policy 1 sets out that planning applications that accord with the policies in the Local Plan and supporting development plan will be regarded as sustainable development and requires that when considering whether a development proposal is sustainable or not, account will be taken of, amongst other things, its location. Given that the proposal does not accord with the above identified policies in the development plan, and the Council's focused reasons for the refusal in relation to location, the Council was reasonable in coming to a conclusion that the proposal conflicts with LP Policy 1, notwithstanding any policy support elsewhere.
7. Furthermore, the committee report provided Members with details of the affordable housing position and the committee minutes indicates that Members had regard to this, as well as the compliance with other development plan policies in their decision making.
8. Even if the proposal accords with other policies within the development plan in relation to rural exception sites and there is policy support for housing elsewhere in the settlement, I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal and made their decision having considered the benefits of the development, compliance with other policies, and the development plan, as a whole.
9. As a result, I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Harrington

INSPECTOR