



Costs Decision

Site visit made on 24 April 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2024

Costs application in relation to Appeal Ref: APP/D0840/W/23/3332955 Zoar Cottage, Passage Hill, Mylor Bridge, Falmouth TR11 5SN

- 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 W Wells for a full award of costs against Cornwall Council.
- The appeal was against the refusal of permission in principle for the construction of two dwellings.

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.
3. In this instance, the applicant has alleged that the Council has not properly applied the relevant development plan policies, notably Policy 3 of the Cornwall Local Plan (LP). As part of my decision letter, I have set out that it was incorrect of the Council to conclude that the policies contained in the Mylor Parish Neighbourhood Development Plan (NDP) made the clauses contained within the strategic LP Policy 3 obsolete. Indeed, the silence of the NDP on the issue of previously developed land cannot be regarded as conflict, and it is clear that the proposal would conform with the requirements of LP Policy 3.
4. Furthermore, the Council has not adequately explained why they believe the proposed development would conflict with this policy. I am of the view that had the Council considered the development plan as a whole, then permission in principle would have been granted. While the Council has concerns about the effect of the proposed development on character and appearance, these detailed matters should have been deferred to the subsequent technical details consent stage.
5. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

6. 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 Mr W Wells, the costs of the appeal proceedings

described in the heading of this decision; such costs are to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is 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.

C Butcher

INSPECTOR