



Costs Decision

Site visit made on 19 September 2024 by R Dickson BSc (Hons) MSc MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2024

Costs application in relation to Appeal Ref: APP/D0840/W/24/3340419 Land North of Couchwell Lane, Couchwell Lane, Lostwithiel PL22 0BQ

- 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 Cornwall Council for a full award of costs against Mr Sean Bartlett.
- The appeal was against the refusal to grant outline planning permission for the construction of a single dwellinghouse.

Decision

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

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Reasons for the Recommendation

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. Paragraph 053 of the PPG¹ deals with substantive awards against an appellant and sets out the type of behaviour that may give rise to an award being made. The Council have referred me to the first two bullet points. Bullet point one suggests that this may occur when the development is clearly not in accordance with the development plan, and no other material considerations indicate a different decision. Bullet point two sets out that a costs award may occur if there has been a similar appeal on the same, or substantially the same site, that has been dismissed.
5. The appeal scheme proposes one dwelling, which, for the reasons set out in my main recommendation, is contrary to the Lostwithiel Neighbourhood Plan 2015-2030 (2018) (LNP). The principle of developing the site balanced on the requirement for fifty percent of the development to be affordable when proposals are outside of the settlement boundary, which is clear in Policy HH2 of the LNP. This was not provided by the appellant, nor was there a clear justification for this omission. Therefore, the principle of development was found to be in conflict with the neighbourhood plan.

¹ Paragraph: 053 Reference ID: 16-053-20140306

6. The appellant asserts that an important reason for submitting the appeal was because the line of the settlement boundary had been recently questioned by members of the Town Council. However, the initial setting of the boundary line followed a rigorous exercise, including some space for expansion. It supports an established policy that enables the successful operation of the NLP in decision making. Although this boundary is now being reviewed, this does not alter the status of the made plan and therefore has no material bearing on the policy issues engaged with the proposed development.
7. For the reasons set out in my recommendation on the appeal, the development proposed was clearly not in accordance with the development plan, and no other material considerations were advanced by the appellant that outweighed the conflict with the neighbourhood plan. As such, the guidance of bullet point one of Paragraph 053 indicates that an award of costs should be made against the appellant.
8. The second bullet point, as indicated by the Council, relies on an appeal decision issued for a similar proposal in a different location. As part of the assessment for land to be included within the Lostwithiel settlement boundary, the appeal site was assessed as part of 'Cell 29'. The Council refer me to a dismissed appeal on a piece of land further to the north. It shares some similarities with the proposal on Couchwell Lane, in so far as it was for a single dwellinghouse, was outside of, but adjacent to the settlement boundary, and it was also within Cell 29.
9. However, bullet point two states that an award of costs may be made where the appeal follows a recent appeal decision in respect of the same, or very similar, development on the same, or substantially the same site. In this case, while the development for a single dwellinghouse is similar, it cannot be said that the two sites are substantially the same.
10. The appeal site appears to be more enclosed by built form and planting. Also, it does not have a clear visual relationship with the surrounding countryside. Accordingly, the guidance of bullet point two of Paragraph 053 does not suggest to me that the context of the appeal site is so similar to the previously dismissed scheme to be directly comparable to it or that an approval would have created an 'inconsistent' decision.
11. Notwithstanding my second finding, I have found that an award of costs should be made against the appellant owing to the fact that the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise.

Costs Order

12. For the reasons given above, I recommend that an award of costs is made to Cornwall Council.
13. 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 Mr Sean Bartlett shall pay to Cornwall Council, 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.

14. The applicant is now invited to submit to Mr Sean Bartlett to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Dickson

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and my representative's report and on that basis an award of costs is made to Cornwall Council.

Ben Plenty

INSPECTOR