



Costs Decision

Site visit made on 5 November 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Costs application in relation to Appeal Ref: APP/D0840/W/24/3342329 Land South East of Tremeneth (Lords View), Idless, Cornwall, TR4 9QT

- 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 and Mrs Kevin Taylor (Appellant).
 - The appeal was against the refusal of planning permission for an outline application with all matters reserved for a single dwellinghouse.
-

Decision

1. The application for a full award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Council's application for costs raises a substantive point and relates to the issue arising from the merits of the appeal. The PPG states that an Appellant will be at risk of an award of costs being made against them if the appeal or grounds of appeal had no reasonable prospect of succeeding. The Council contend that the Appellant did not understand the reason for refusal and made no reasonable attempt to justify the development in relation to the policies referred to and the matters raised in its Delegated Report.
4. The PPG reference to "*unreasonable*" should be used in its ordinary meaning. The PPG states that the risk of an award being made against the Appellant may occur in a list of scenarios, with the caveat that the list is not exhaustive. The list includes where a development is "*clearly*" not in accordance with the development plan and no other material considerations are advanced that indicate the decision should have been made otherwise or where other material considerations are advanced there is inadequate supporting evidence.
5. The Appellant's submissions centred on the contention that the proposed development represented infill in accord with part 3 of policy 3 to the Cornwall Local Plan Strategic Policies 2010-2030 (November 2016). The Appellants submissions, including its response to the costs application, make clear that the evidence to support that contention largely rely on the Planning Statement prepared by CAD Planning (dated 7 November 2023) (PS). My understanding of this is that the Appellant maintained, notwithstanding the matters raised in the Delegated Report, that the proposal did represent infill development. I

fully understood this point and I am satisfied, therefore, that the Appellant did understand the reason for refusal and sought to justify the development by reference to the PS and subsequent submissions. In doing so, the Appellant contended that there was a reasonable case and merit to the appeal proposal, and that they essentially disagreed with the Council in maintaining that it did involve infill development.

6. A large part of the Council's evidence was taken up with the infill issue and this was reflected in my own main decision. In the latter, I undertook an assessment of the definition of infill as set out in policy 3, its supporting text and in the Chief Planning Officers Advice Note on Infill/Rounding-off (December 2017) (CPO Note). There were a number of steps to that assessment, firstly reaching a judgement on the form and shape of Idless, given that neither the CLP nor the Truro and Kenwyn Neighbourhood Plan 2015-2030 (May 2023) identified a settlement boundary for the village. Secondly, a judgement as to whether the appeal site was part of the village or in the open countryside, and also whether it was part of a continuous built up frontage and/or was part of a small gap. That included an assessment on the ground, where it was evident that the curtilages and accesses of some adjoining dwellings were adjacent or close to the appeal site.
7. Other considerations were also advanced in relation to local need, previously developed land and examples of what the Appellant contended were similar development. I accept that in relation to some of those considerations no substantive evidence was provided. Even so, all of these, including 'A Secure Home for All' which responded to the accepted local housing crisis in Cornwall, needed to be addressed. There was also the example at Little Garras, where the Council had approved a new dwelling from extending and converting a redundant building within the open countryside as it complied with part 3 to policy 7 of the CLP. My further understanding is that it was approved by the Council's Planning Committee contrary to Officers advice, with, I assume, Committee exercising its judgement to reach a different view on the matter.
8. Whilst I found that the appeal proposal did not fall within the definition of infill and was not acceptable, that finding followed therefore a thorough assessment of the submitted evidence and of the development against the provisions of policy 3, its supporting text and the general guidance within the CPO Note. As such, this was not, in my view, a development that was plainly or "*clearly*" in conflict with the development plan or where the grounds of appeal had no merit or reasonable prospect of succeeding. The parties disagreed over whether the proposal represented infill and to reach a finding on that issue involved planning judgement and a proper assessment of the evidence.
9. Given the above, I cannot agree that the Appellant has acted unreasonably in this case.

Conclusion

10. I find that unreasonable behaviour, resulting in unnecessary or wasted expense to the Council, as described in the PPG, has not been demonstrated. A full award of costs is, therefore, not justified.

G Roberts

INSPECTOR