



Costs Decision

Hearing held on 15 October 2024

Site visit made on 15 October 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Costs application in relation to Appeal Ref: APP/D0840/W/23/3335267 Trelewick, St Allen, Truro, Cornwall TR4 9QU

- 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 Mrs Marlene Burley for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the erection of a farmworker's dwelling and garage without complying with a condition attached to outline planning permission Ref 8900375, dated 10 May 1989.
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Decision

1. The application for an award of costs is refused.

Submissions and responses

2. The costs application was submitted in writing. The Council's rebuttal was also submitted in writing. A further written submission was made by the applicant, in response to the Council's rebuttal. The Council responded to this orally during the hearing.

Reasons

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. Whilst the Council refused the planning application as it is not in accordance with development plan policy, I have found that the appeal does not turn on Policy 7 of the Local Plan¹. Both parties agree that the guidance contained within PPS7² and Circular 11/95³ remains sound and, albeit no longer extant, I have no compelling reason to disagree with this view.
5. In regard to the removal of an occupancy condition, PPS7 was intended to be supplemented by a local policy approach. There are no Local Plan policies in place which set out the requirements for an application for the removal of an agriculture and forestry worker's occupancy condition and the Framework⁴ is also silent on this matter. Given this, both main parties have limited certainty regarding how the necessity and reasonableness of the condition should be

¹ Cornwall Local Plan 2010-2030 (the Local Plan)

² Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7)

³ Circular 11/95: Use of conditions in planning permission

⁴ National Planning Policy Framework (the Framework)

demonstrated. It is understandable, therefore, that the Council is progressing their own guidance relating to this specific issue.

6. Nonetheless, the inflexible application of the County Land Agent's recommended marketing period is, in this case, unreasonable given the uncontested guide price of the appeal farmhouse. No other valuations have been undertaken by the Council and there is no dispute that it would be significantly above what an average rural worker could reasonably afford. The target market for the property is, consequently, limited to an existing or retired rural worker with substantial funds.
7. As set out in my appeal decision, I see no compelling reason to conclude that extending the marketing period for a further three or six months would have resulted in a successful sale. Furthermore, as evidenced in other appeals within Cornwall, the marketing of a property is not the sole way of establishing need, particularly where its value is far more than an individual who would meet the requirements of the condition could afford.
8. Whether there is an unmet need for agriculture and forestry worker's dwellings in the area could be determined through a review of the number of applications for this type of development submitted to the Council. The applicant's Planning Statement indicated that there had been no such applications within the Parish of St Allen in the last decade. This was not countered by the Council. Notwithstanding the details provided by the Council as part of the appeal, whether there is an unmet need for agriculture and forestry worker's dwellings in the area was not addressed during the determination of the planning application. This is, in itself, unreasonable.
9. However, had a more flexible approach to the marketing period required been adopted and a thorough assessment of need in the area undertaken, given the Council's appeal evidence, there is no guarantee this would have led to the gain of planning permission. Whilst I have found the Council's approach to be unreasonable, there remains the likelihood that the application would have been refused. Therefore, unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Juliet Rogers

INSPECTOR

APPEARANCES

For the Appellant:

Mrs Marlene Burley	Appellant
Mr Trevor Burley	Appellant's Husband
Mr Christopher Tofts	Partner, Stephens Scown LLP

For the Local Planning Authority:

Mrs Niamh Ashworth	Senior Development Officer, Cornwall Council
Mr James Holman	Principal Planning Officer, Cornwall Council