



Costs Decision

Site visit made on 8 May 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Costs application in relation to Appeal Ref: APP/D0840/W/24/3357057

Lower Forge Farmhouse, Nancekuke, Redruth, TR16 5UE

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Burley for a full award of costs against Cornwall Council.
 - The appeal was against the refusal to grant planning permission for demolition of existing dwelling and construction of new replacement energy efficient dwelling and associated landscaping works.
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Decision

1. The application for an 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. The PPG reference to “*unreasonable*” should be used in its ordinary meaning. The Appellant’s application for costs raises substantive points. The PPG states that local planning authorities (LPA) will be at risk of an award being made against them if they fail to produce evidence to substantiate their reasons for refusal.
3. The Appellant contends that the LPA did not exercise their duty to consider the application in a reasonable manner, they misunderstood and misapplied policies and that their decision was not based on any objective or proper analysis or on a full understanding of the benefits of the proposal. The LPA, therefore, prevented development which should have been permitted resulting in the Appellant incurring the unnecessary or wasted expense of an appeal.
4. Whilst I have found the appeal proposal to be acceptable, that finding was based on the evidence presented, the policies of the development plan and those of the National Planning Policy Framework (NPPF). In relation to the non-designated heritage asset (NDHA) and its value, significance and loss, my findings were based on the Appellants Heritage Impact Assessment, the Council’s Pre-application Advice, the submitted evidence and my own observations on site.
5. The LPA’s evidence comprised its Statement of Case (SOC), based on its reason for refusal, with their assessment of the significance of the NDHA and the harm that they alleged resulted from the appeal proposal. In terms of the significance of the NDHA that assessment is partly subjective and involves matters of judgement, on which opinions will differ. It is also for the decision-maker to decide what weight to

accord specific factors and considerations, as well as the significance of the NDHA and the benefits that the scheme would secure. I found the value of the NDHA was low and that its loss was justified and acceptable. Also, that the new dwelling would secure a number of benefits that in the overall planning balance outweighed the loss of the NDHA. That assessment also required judgements to be made on the benefits of the scheme, assisted by the Appellants evidence in relation to how the proposal would achieve energy and carbon savings.

6. Turning to the Climate Emergency Development Plan Document (DPD), the LPA's objection and SOC refer to the conflict with policy C1. I accept that the LPA did not refer specifically to policy SEC1 of the DPD, but their submissions confirm that they undertook an appropriate balancing exercise and concluded that any benefits of the proposal did not outweigh the alleged harm from the loss of the NDHA. There is no substantial evidence before me to suggest that the LPA did not weigh up all the relevant issues and submissions in reaching a balanced decision. In view of this, I do not consider that the omission of a specific reference to policy SEC1 could amount to unreasonable behaviour or to a finding that the LPA prevented development that should have been permitted.
7. From the LPA's submissions it is clear that they attached greater importance to the NDHA and thus its loss. That was an entirely reasonable approach for them to take given that paragraph 216 of the NPPF states that *"In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* As I found in my main decision, the appeal proposal did not result in any harm to the significance of the NDHA.
8. Whilst the Council referred to the test of less than substantial harm weighed against the public benefits, as paragraph 215 of the NPPF states that applies to the harm to the significance of designated heritage assets. Even so, I also found the proposal to be compliant with policy 24 of the Cornwall Local Plan Strategic Policies 2010 – 2023, which the LPA accepted did not distinguish between designated and non-designated heritage assets. The LPA's submissions also argued that paragraph 216 of the NPPF set out the same approach as for designated heritage assets but as I found the approach to the latter, set out in paragraphs 212 – 215 (inclusive) of the NPPF, is different.
9. On balance, whilst I did not agree with the LPA's findings, I am satisfied that their position in relation to the NDHA was reasonably clear and that they undertook an appropriate balancing exercise, as well as providing sufficient evidence to support their objection.
10. I find, therefore, that the LPA have not acted unreasonably in this case.

Conclusions

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

G Roberts

INSPECTOR