



Costs Decision

Site visit made on 14 October 2025

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

an Inspector appointed by the Secretary of State

Decision date: 03 November 2025

Costs application in relation to Appeal Ref: APP/D0840/W/25/3368495

Land adjacent to Bosence Road, Townshend, Hayle, TR27 6AL

- 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 Oak Tree Farm Ltd for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for construction of a processing building, distribution building, water pump shed, polytunnels, water harvesting tanks, the siting of ground mounted solar panels, the widening of access and associated works.
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Decision

1. The application for a partial 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 partial application for costs raises a substantive point. 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, that they failed to have regard to existing planning approvals and misapplied or misinterpreted development plan policies. The LPA therefore prevented development which should in principle have been supported resulting in the Appellant incurring the unnecessary or wasted expense in addressing this aspect of the appeal.
4. Whilst I found the appeal proposal to be acceptable, in terms of specifically the principle of the proposal, that finding was based on the evidence presented, the policies of the development plan, those of the National Planning Policy Framework (NPPF) and my observations on site. Whilst the LPA did not submit a Statement of Case, the evidence presented included its Delegated Report (CDR), policy extracts from the Cornwall Local Plan Strategic Policies 2010-2030 (CLP), the Climate Emergency Development Plan Document (DPD), the Cowan Parish Neighbourhood Development Plan 2018-20230 (NDP) and representations from interested parties. All of this evidence, summarised in the reason for refusal, provided a good explanation of the LPA’s objection to the principle of the appeal scheme.

5. In relation to the planning approval on the appeal site for a horticultural use and associated buildings, the evidence indicates that the LPA had regard to this both as a fall-back option and as a basis when considering the appeal proposal. The latter sought the provision of new buildings and structures to support a separate or new business enterprise based on the use of hydroponics. My understanding is that the LPA considered the appeal proposal to be of an inappropriate scale for the site and its setting, that there was insufficient evidence of need for the new business and that the proposal would not be sustainable. Whilst I disagreed with those findings that was based on a comparison of the approved and proposed schemes, their different business models/elements and compliance with CLP and NDP policies. An assessment that involves planning judgements, on which opinions will differ.
6. Turning to the development plan, as I confirmed in my main decision, neither the CLP nor the NDP were silent on proposals for new rural businesses, including new agricultural enterprises or diversification. The requirements and criteria to policy 5 (part 1) of the CLP and to policy EP3 of the NDP were both relevant in considering the acceptability of the principle of the new hydroponics proposal. These criteria covered the issues of scale, sustainability, location and need. Whilst I accept that the reason for refusal refers to “*essential*” need that is broadly similar to the policy test reference to “*overriding*” need. A similar policy approach was also adopted with the approved horticultural use, albeit in that instance the LPA took advice from its Chief Land Agent & Valuer (CLA&V) on the need for the scale of the buildings proposed. It appears that the CLA&V was not consulted or did not comment on the appeal scheme. In addition, the fact that the LPA had accepted the need and scale of the approved horticultural use did not negate the requirement for the proposed new hydroponics use to be reassessed against the same CLP and NDP policies.
7. Turning to the planning approval for an aquaponic/stable buildings at Noonvares Farm, as I confirmed in my main decision, due to my findings on the principle of the appeal proposal I did not consider it necessary to have regard to this. However, from the planning background to Noonvares it appears that this was considered against the same policies of the CLP and NDP. I also note that the CLA&V advised that the scale of the new buildings in that case were justified. Even so and as is also required, I determined the appeal on its individual merits.
8. I am satisfied, therefore, that the LPA properly applied the policy tests and criteria from the CLP and NDP and that this approach was not inconsistent with that taken on the Noonvares Farm site and was necessary given that the appeal proposal was apparently promoted as a new and separate hydroponics scheme/business model to the approved horticultural scheme.
9. Given the above, I cannot agree that the LPA acted unreasonably in its objection to the principle of the appeal proposal.

Conclusions

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

G Roberts

INSPECTOR