
Costs Decision

Site visit made on 20 September 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th October 2016

**Costs application in relation to Appeal Ref: APP/X1118/W/16/3149167
Valle Vue, Road From Forches Cross to Abbotsmarsh Wood, Burrington,
Devon EX37 9NF.**

- 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 Mr Kevin Watts for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of prior approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an open fronted agricultural shed.
-

Decision

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

Reasons

2. 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.
3. The applicant's case is that the Council has acted unlawfully and the prior approval procedure was not followed. Prior approval only becomes relevant if the proposed development falls within permitted development rights. The Council determined the application on the basis that the proposal could not be permitted development. In reaching this view, the Council relied on evidence from a recent appeal decision on the site.¹ There is no specified method in the legislation for communicating to the appellant if the local planning authority does not consider that the development benefits from permitted development. The Council chose to issue a decision notice which contained clear reasons and enabled it to be read as a refusal of prior approval. I do not consider this to constitute non-compliance with procedural requirements amounting to unreasonable behaviour.
4. The applicant also considers that the Council submitted irrelevant material, and its statement of case was confusing. The appeal decision which the Council relied upon was relevant as it related to a very similar proposal on the site. The main issues in that appeal were also highly relevant to the current appeal proposal as they concerned the issue of whether the building was reasonably necessary for the purposes of agriculture of the holding. It was therefore

¹ APP/X1118/A/14/2218358, dated 16 February 2016

correct for the Council to refer to the previous appeal and another related enforcement appeal². The Council also submitted an extract from the Development Control Practice encyclopaedia. This was entirely appropriate as the Council referenced relevant case law which was summarised in the extract from the encyclopaedia. The Council's case was clear and I have no evidence that its appeal statement was confusing.

5. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. In reaching this decision, I have had regard to the other decisions submitted by the applicant, which I do not consider to be relevant to this application. An award of costs is therefore not justified.

Debbie Moore

Inspector

² APP/X1118/C/14/2220547 dated 16 February 2016