
Costs Decision

Site visit made on 13 December 2016

by David Walker MA MRTPI

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

Decision date: 12th January 2017

Costs application in relation to Appeal Ref: APP/X1118/W/16/3157442 Barn at Houndhill, Burrington, Devon EX37 9LJ

- 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 Corrienne Hall for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of an application for planning permission for conversion of agricultural barn to form one dwelling.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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 North Devon Local Plan of 2006 (the LP) remains the development plan for the purposes of section 38(6) of the Planning Act. The Council was therefore correct to start at Policies ENV1 and ECN5 of the document in its consideration of the application. Although the Council sought to demonstrate how these policies were consistent with paragraph 55 of the National Planning Policy Framework (the Framework) it will be apparent from my decision that I did not find this to address the specific policy of the third bullet point of paragraph 55, which was the matter before me.
 4. Paragraph 6 of the Framework explains that the policies of the document taken as a whole constitute what sustainable development means in practice. It is conceivable there may be circumstances therefore where a conflict exists between the individual policies of the document. In such cases a judgement will be required and, while I have evidently found in support of the proposal against paragraph 55, I do not find the Council's consideration of other policies of the Framework in the matter to be perverse.
 5. Against the paragraph 55 requirement for the building to be redundant or disused the Council reached a view on the basis of the information provided to it and from the officer's site visit. In the absence of any clarification or other guidance on the matter I find such an assessment to be finely balanced in this case and as a result the Council's alternative view does not amount to being unreasonable.
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6. In relation to emerging policies, although the appellant has sought to rely on Policy DM27 of the emerging North Devon and Torridge Local Plan the policy may be subject to change during the course of the plan's examination. Policy DM27 attracts limited weight in these circumstances and I find no unreasonable behaviour in the caution exercised by the Council over its applicability at this time.
7. Overall, while I evidently do not agree with the Council's decision I do not find it to be so perverse that unreasonable behaviour in the manner described within the Planning Practice Guidance has been demonstrated. Consequently, neither a full nor a partial award of costs is justified.

David Walker

INSPECTOR