
Costs Decision

Site visit made on 19 November 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Costs application in relation to Appeal Ref: APP/X1118/W/19/3225305 Field 4932, Little Bray Lane, Brayford, Devon EX32 7QG

- 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 Karen Turner, KST Farming Ltd. for a full award of costs against North Devon District Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A, Paragraph A.2.(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an agricultural barn.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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. Against the background of an earlier refusal of planning permission where the need for the building had been called into question, I understand why the Council may have wished to establish whether a need now existed and so whether the proposal could be permitted development (PD). The evidence that was sought by the Council in this regard may well have been reasonable to establish that position and the officer's report sets out reasons why the Council was not satisfied in that regard. I also understand that the Council sought to be open with the appellant throughout the decision making process.
4. However, as set out in my main decision, there is no provision under Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to determine whether the development would be PD.
5. As per my main decision, assessment of the proposal should be limited to consideration of the prior approval matters, in this case the siting, design and external appearance of the building. In that regard I found that no substantive evidence of harm had been presented to me and any suggestions of harm were conflated with concerns over the need for the building. There is no substantive evidence that had the Council confined its consideration to the relevant prior approval matters, approval would have been withheld. In such circumstances, an appeal and the related expense could have been avoided.

6. I, therefore, find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Devon District Council shall pay to Mrs Karen Turner, KST Farming Ltd., the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to North Devon District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Bale

INSPECTOR