
Costs Decision

Site visit made on 7 July 2020

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 10 August 2020

Costs application in relation to Appeal A Ref: APP/U1105/C/19/3234097 Land at and adjacent to The Workshop, Longmeadow Road, Lymestone, Devon EX8 5LF

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Lomax for a full award of costs against East Devon District Council.
 - The appeal was against an enforcement notice alleging the installation of a self-contained Klargester sewage treatment plant discharging into Wooton Brook.
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Costs application in relation to Appeal B Ref: APP/U1105/X/19/3238290 Land at and adjacent to The Workshop, Longmeadow Road, Lymestone, Devon EX8 5LF

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Lomax for a full award of costs against East Devon District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the provision of a porous hard surface to be used for any purpose incidental to the enjoyment of the dwelling known as The Workshop.
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Decision

1. The application for an award of costs is refused in relation to both appeals.

Reasons

2. 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. The application is essentially on the grounds that the Council has failed to properly determine whether the land is within the curtilage of the dwelling. It should not therefore have issued the notice or refused the CLU application since, if it had properly assessed the issue of curtilage, the Council would have concluded that both the sewage treatment plant and the patio hardstanding are permitted development and there is consequently no breach of planning control.
4. No planning permission has been granted for the use of the land the subject of the appeals for residential use. This is undisputed. Hence the determination as to whether it is curtilage is the crucial issue. The Council's reasons for determining that it is not within the curtilage of the dwelling is clearly set out in

its delegated report dealing with the CLU application. As set out in my appeal decisions I agree with the Council. It has determined and clearly justified why the land is not within the curtilage of the dwelling. The Council has properly considered this substantive issue.

5. The appellant also argues in that the Council has failed to answer his correspondence or hold a meeting with him and that this constitutes unreasonable behaviour. I disagree. His appeal statement documents the Council's responses including the Council's last response setting out why a meeting would serve no useful purpose. I cannot fault the Council on any procedural issues.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Nick Fagan

INSPECTOR