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## Costs Decision

Site visit made on 10 September 2020

**by Nick Fagan BSc (Hons) DipTP MRTPI**

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

**Decision date: 05 October 2020**

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### **Costs application in relation to Appeal Ref: APP/U1105/C/20/3250819 Land opposite Woodbury Business Park, Woodbury, Devon EX5 1AY**

- 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 G B House and Son for a full award of costs against East Devon District Council.
  - The appeal was against an enforcement notice alleging the construction of a vehicular parking/storage area.
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### **Decision**

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

### **Reasons**

2. 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 application is made on the grounds that the Council's Development Management (DM) Committee unreasonably and without any proper justification refused the planning application for this development, contrary to officer recommendation for approval, and then unreasonably proceeded to issue its enforcement notice. In doing so the Council has failed to approve development without delay that clearly complies with relevant development plan policy, line with paragraph 11c) of the National Planning Policy Framework (NPPF).
4. In my decision I set out why the appeal under ground (a) of Section 174 of the Act should be allowed, including why the development complies with relevant development plan and NPPF policy.
5. However, such compliance is a matter of judgement. The Council's DM Committee judged that the proposal adversely affected the visual amenity of the area and caused less than substantial harm to the setting of the nearby listed farm building, and that the public benefits of such did not outweigh the harm to the listed building. That judgement was clearly within the Committee's remit, irrespective of the officer recommendation to approve.
6. The Council has clearly set out its case at appeal. Namely, that the new car park on the opposite side of the road has introduced an urbanising and intrusive element at odds with the open countryside and that this would introduce some limited (less than substantial) harm to the setting of the listed barn. Its appeal statement makes clear that this harm would not be

outweighed by the public benefits of providing additional car parking for the Business Park, which would ensure the continued success and growth of the businesses occupying it.

7. The fact that I have allowed the appeal and concluded that the proposal would comply with development plan and NPPF policy does not mean that the Council's decision to refuse the application and issue the enforcement notice was unreasonable.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, an award of costs is not justified.

*Nick Fagan*

INSPECTOR