



Costs Decision

Site visit made on 3 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2023

**Costs application in relation to Appeal Ref: APP/Q1153/W/22/3296092
Cotstow, Road from Methodist Church to Liftondown, Liftondown
PL16 ODA.**

- 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 Mark Warden for a full award of costs against West Devon Borough Council.
 - The appeal was against the refusal of planning permission for the erection of timber framed stable block.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicant claims that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place due to: discounting other planning decisions brought to its attention thereby resulting in inconsistent decision making; the Council being unable to confirm if agricultural land is classed 3a or 3b; and the Council's decision falling contrary to Landscape Officer advice while relying on a defunct land classification no longer available to assess the land.
4. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. They also clearly state the policies of the development plan that the Council considers the proposal would conflict with. This reasoning has been adequately substantiated in the Council's Officer Report (OR).
5. While it may be the case that other applications have been supported by the Council, each case must be judged on its own merits, and I do not have

sufficient evidence before me that the other applications quoted have such similarities that result in an unreasonable level of inconsistent decision making.

6. The OR states the land classification to be '3' according to Natural England's Agricultural Land Classification. The OR continues that no evidence was provided to suggest the site lies within either 3a or 3b, and refers to the Plymouth and South West Devon Joint Local Plan Supplementary Planning Document 2020 (SPD). The SPD at para 11.59 states that if there is uncertainty over the exact classification it will be for the applicant to demonstrate what the land classification is for a piece of land. Given the evidence before it, and acknowledging the claimed difficulty in obtaining clarity on land classification, I do not consider that the Council's approach to the land classification to be unreasonable, and is clearly reasoned within the OR.
7. The Landscape Officer is a consultee in the planning process, and the Council is not required to follow the advice of a consultee, providing adequate reasoning has been provided supporting the decision. In this instance, the Landscape Officer clearly raises concerns which the OR quotes and utilises in the reasoning for the decision.
8. Whilst I have come to a different conclusion to the Council, the Council had adequately substantiated its reasons for refusal and given that the effect on the character and appearance of the area is a matter of judgement, there has been no unreasonable behaviour. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S Harrington

INSPECTOR