



Costs Decision

Site visit made on 28 March 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Costs application in relation to Appeal Ref: APP/W1145/W/22/3297057 Land to east of School Lane Farm, Chilsworthy, Holsworthy, EX22 7BQ

- 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 Torridge District Council for a full award of costs against Barton Farm Homes Ltd.
 - The appeal was against the refusal of outline planning permission for residential for 5 dwellings.
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Decision

1. The application is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the 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 applicant (in this case the Council) submits that the appellant's case is largely based on its misconception that the Council's Environmental Protection Officer (EPO) is not sufficiently qualified to advise on the odour matters that were central to its decision. It suggests that this is a matter that could have been easily clarified at any point before it made its decision, and to not have done so is unreasonable.
4. I do agree that it is unclear why the appellant made so much of whether the EPO was suitably qualified or experienced to provide advice at the appeal stage and not when it was liaising with the applicant before it made its decision. However, the appellant's case at appeal is not solely based on the issue of whether the EPO is able to advise. It also focuses on the substantive matter of the effect of the operations at the existing farm on the proposal, and whether the two uses would be compatible. For these reasons, even if it had not challenged the expertise of the EPO, it would appear likely that it would still have pursued the appeal. Therefore, I do not consider the whole basis for the appeal to be unreasonable, and the substantive parts of the applicant's submissions at the appeal stage would still have been necessary even if it did not also have to defend its EPO's expertise.
5. The PPG states that costs may be awarded where a party gives information that is incorrect. In this respect the applicant refers to the information that the appellant relied upon in relation to the existing farm in the form of a layout plan that appears to be incorrect. I accept that this would have been evidence that could have been gathered by the appellant by visiting the farm and liaising directly with its operators. However, the information that the appellant relied

upon was in the public domain and they had no reason to doubt its accuracy, given the purpose for which it was prepared. Therefore, I am satisfied that the appellant did not act unreasonably in this respect.

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Tucker

INSPECTOR