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## Costs Decision

Site visit made on 15 August 2023

**by S Harrington MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 August 2023**

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### **Costs application in relation to Appeal Ref: APP/D0840/W/23/3314604 Lanuah Farm, Lane to Lanewa Farm, St Ewe, St Austell, PL26 6ER**

- 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 Peter Bowker, PB Architecture for a full award of costs against Cornwall Council.
  - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'Order') for the conversion of an existing portal framed barn structure into a single detached residential unit, adequate natural light will be provided to all habitable rooms. An adjoining lean to – unsuitable for conversion will be demolished and cleared away.
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### **Decision**

1. The application for an award of costs 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 contends that the Council have acted unreasonably based on a failure to accept and to take into account new information including a new structural report (SR) and precedent cases; a reason for refusal relating to an administrative matter; and the issue of the Council's Officer report (OR) simultaneously on the same day as the issue of the decision thereby depriving the applicant of any discussion.
4. The OR refers to and quotes directly from the new SR. Furthermore, the OR provides an assessment of the proposal which again directly refers to the SR and has therefore taken into account this information. Whilst the OR does not refer to other precedent cases, it has discussed case law referred to by the applicant. Whilst some commentary on these cases would have provided more clarity on the Council's assessment of the application to the reader of the OR, each proposal is required to be assessed on its own merits. Therefore, I do not find that the Council have been unreasonable by not directly quoting these cases within their OR.
5. Given the appeal site lies within close proximity to the Fal and Helford Special Area of Conservation, the Council have stated a financial contribution is required within a planning obligation in relation to Strategic Access Management and Monitoring as detailed within the European Sites Mitigation Supplementary Planning Document July 2021 (SPD). I note a letter from the

Council to the applicant dated 17<sup>th</sup> November 2022 highlighting the location of the appeal site within a zone of influence and directing the applicant to the SPD. I have identified within the appeal decision that an application under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 application would have been a matter to address before the development starts if this appeal were to have been successful. Therefore, as this is a matter the applicant would need to have addressed in any case, the Council's second reason for refusal has not led to any unnecessary or wasted expense in the appeal process.

6. While the National Planning Policy Framework encourages Councils to work proactively with applicants, it is not unusual for Councils to publish their OR simultaneously with the decision notice. Furthermore, noting the decision-making time frame outlined within the Order, the simultaneous publishing of these documents is not unreasonable.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*S Harrington*

INSPECTOR