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## Costs Decision

Site visit made on 24 July 2023

**by C Cresswell BSc (Hons) MA MBA MRTPI**

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

**Decision date: 8 September 2023**

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### **Costs application in relation to Appeal Ref: APP/K1128/W/22/3310899 Bridge House Farm, Portford Lane, South Brent TQ10 9PF**

- 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 The Outdoors Group Ltd for a full award of costs against South Hams District Council.
  - The appeal was against the refusal of planning permission for "change of use of agricultural land and dwellinghouse to outdoor educational facility Use Class F1(a)."
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### **Decision**

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

### **Reasons**

2. Planning law indicates that applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. It seems to me that the Council's approach to assessing the application was consistent with this process. The Decision Notice indicates that the proposal was refused because it conflicted with a number of Local Plan policies. However, the Council Officer Report identifies a number of other material considerations including the Public Sector Equality Duty and paragraph 95 of the National Planning Policy Framework.
3. Although paragraph 95 of the National Planning Policy Framework indicates that great weight should be given to the creation of new schools, it does not automatically follow that the application should have been permitted. I note that the Officer Report contains an individual section headed 'Provision of Special Educational Needs Facilities' which argues that the Local Plan makes adequate provision for these schools in line with the spatial strategy. It also refers to the Appeal Decisions referenced by the appellant. The report contains a separate 'Conclusion' section which acknowledges the demand for special educational needs facilities in Devon but says that this does not outweigh the strong highways objections. Further details about these matters are provided in the Council's Appeal Statement.
4. It therefore seems to me that the Council has taken into account the benefits of providing the school and made a reasonable attempt to explain why the advice in paragraph 95 of the National Planning Policy Framework was not considered to outweigh the Local Plan conflicts. While the appellant may disagree with the Council's position, the amount of weight which is assigned to conflicts with development plan policy is largely a matter of planning judgement. In my view, the Council has justified its stance.

5. Both the Officer Report and Council Appeal Statement refer to comments made by the Highway Authority regarding the surrounding road network. These provide relatively detailed observations of the local road conditions and attempt to estimate the likely traffic flows being generated by the school. Concerns are also raised about the use of Grampian style planning conditions to secure passing places on unregistered land and on non-highways land. Therefore, while the appellant says the highways comments are incorrect, the Council nonetheless provides evidence to support its reason for refusal.
6. The appellant says the Council misunderstood the part of its evidence which says "...it is preferable for the school to be as close to an urban setting as possible...". However, this is a small part of the overall appeal evidence and both parties have subsequently clarified their positions at the appeal stage of the process. The issue of whether the school requires a countryside location is matter of planning judgement on which the Council is entitled to reach its own view based on the evidence presented.
7. The Council's Decision Notice cites conflict with Policy TTV26 of the Local Plan which concerns development in the countryside. In explaining why this is considered to be the case, the Officer Report quotes paragraph 11.44 of the SPD<sup>1</sup> which says that development in the countryside should occur only in exceptional circumstances. Yet while Policy TTV26 does not contain a requirement for exceptional circumstances, the SPD is a formal planning document which is used to help interpret Local Plan policies and so it was reasonable for the Council to refer to it.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

*C Cresswell*

INSPECTOR

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<sup>1</sup> Plymouth & South West Devon Joint Local Plan 2014-2034 Supplementary Planning Document.