
Costs Decision

Site visit made on 7 November 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Costs application in relation to Appeal Ref: APP/K1128/W/23/3321395 The Cedars, Marley Head to New Cross, South Brent, Devon TQ10 9LW

- 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 Steve Haskell for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of the Council to grant prior approval for change of use of agricultural buildings/barns to 1No (class C3) & for associated development (Class Q (a+b)).
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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. Costs applications may relate to events before the appeal or other proceeding was brought, but costs that are unrelated to the appeal or other proceeding are ineligible. Additionally, the PPG says that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The PPG also says that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of unreasonable behaviour which may result in an award of costs include but are not limited to:- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and failure to produce evidence to substantiate each reason for refusal on appeal.
4. The Applicant states that the costs application is submitted on the grounds that the prior approval application submitted to the Council could have been avoided if previous decisions had identified the Council's concerns over their alleged intervening domestic ancillary use. They also contend that the proposed curtilage was enlarged between the first and second applications at the request of the Council's Officer. However, matters relating to previous applications are unrelated to this appeal and awards cannot extend to compensations for any such indirect losses. Additionally, the matter of curtilage is not in dispute.

5. In respect of the alleged intervening use of the building, the Council has provided evidence that demonstrates the matter of the sole use of an agricultural building had formed part of previous Officer delegated reports. Also, previous decision notices included reference to schemes not meeting the requirements of Q1.a of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, Schedule 2, Part 3. Amongst other things, this states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. With this appeal, the Council's decision notice focussed its concerns to the alleged intervening use, which is not a new matter.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Hills

INSPECTOR