



Costs Decisions

Site visit made on 11 June 2024

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

an Inspector appointed by the Secretary of State

Decision date: 9th August 2024

Appeal A:

**Costs application in relation to Appeal Ref: APP/Q1153/W/23/3331973
Higher Southcombe Farm, Road From Stone Barn To Eastcombe Cross,
Northlew, Devon, EX20 3PD**

- 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 West Devon Borough Council for a full award of costs against Mr Peter Brierley.
 - The appeal was against the refusal of the Council to grant planning permission for erection of building for use as a wellness centre and associated facilities.
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Appeal B:

**Costs application in relation to Appeal Ref: APP/Q1153/W/23/3331967
Higher Southcombe Farm, Road From Stone Barn To Eastcombe Cross,
Northlew, Devon, EX20 3PD**

- 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 West Devon Borough Council for a full award of costs against Mr Peter Brierley.
 - The appeal was against the refusal of the Council to grant planning permission for erection of building for erection of dwelling, garage and associated works.
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Decision

1. **Appeal A-** The application for an award of costs is refused.
2. **Appeal B-** The application for an award of costs is refused.

Reasons

3. Although the site is entirely within Flood Zone 1, the access lane passes through Flood Zone 3 before joining the highway network. Planning policies say that development in Flood Zone 3 needs to be supported by specific evidence, which the appellant did not provide. On that basis, the Council argue that the appeals had no reasonable prospect of succeeding.
4. However, the appeals were made after the Council failed to determine both planning applications. While I am aware that there was some communication between the parties during the application process, no formal Decision Notices were issued and so Mr Brierley could not have been sure of the Council's final position on the flooding issue until the appeal stage.
5. Furthermore, I found in favour of the appellant with regard to the flood risk issue in my main decisions. In my view, there was no need for Mr Brierley to supply the evidence requested by the Council. I give reasons for this in my main decisions so will not repeat them here.

6. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR