



Costs Decision

By A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 31st March 2025

Costs application in relation to Appeal Ref: APP/Q1153/X/23/3330371

Seldon Farm, Road from Vellaford Cross to Monkeokehampton Cross EX19 8RY

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr G Case for a full award of costs against West Devon Borough Council.
 - The appeal was in connection with an appeal against the refusal of a certificate of lawful use or development (LDC) for the use of timber chalet and associated garden curtilage area as annexe to main house.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 is concerned about the handling of the LDC application including the perceived non-cooperative approach taken by the respondent with the agent. However, in LDC appeals, the onus of proof is firmly upon the applicant. Allegations of mishandling of the application may be indicators of unreasonable behaviour. Nevertheless, the purpose of this application process is not to resolve by investigation every allegation of unreasonable behaviour. Rather it is to decide if an award of costs in respect of the appeal is justified on the available evidence in a particular case.
4. Procedures adopted by the respondent for determining applications are generally a matter for the authority within the context of local accountability. The process may be open to criticism in a particular case; but cause and effect need to be addressed in deciding an application for costs. The power to award costs enables a party to be awarded the costs necessarily and reasonably incurred in the appeal process. Applications may relate to what happened before the appeal was lodged, but costs incurred that are unrelated to the appeal itself are not eligible.
5. The applicant is upset because they feel the appeal was unnecessary, but the circumstances suggest that there was a fundamental disagreement between the appeal parties. The applicant exercised their right of appeal to test the respondent's objections.
6. The significant difference of opinion focused upon the description of the existing use, perceived inaccuracies in the witness statements, and whether a separate

residential planning unit had been created. My decision explains why I have found in favour of the applicant, but I have taken a different approach in assessing the merits of the LDC application. This is because I have applied principles established by case law to the particular facts of the case. Whilst I have come to a different judgment, I do not consider that the respondent's approach was totally unacceptable given the principles and concepts are open to interpretation.

7. Acting contrary to established case law can amount to unreasonable behaviour. However, that will not necessarily be the case where the authority relies on a legal interpretation which is not, in the event, supported by the reasons for an appeal decision. It seems to me the respondent adopted an alternative position on the facts of the case, but the respondent submitted sufficient evidence to substantiate the reasons for refusing the LDC.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is unjustified.

A U Ghafoor

INSPECTOR