



Costs Decision

Site visit made on 12 March 2026

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2026

Costs application in relation to Appeals A and B Ref: APP/K1128/C/24/3339477 and APP/K1128/C/24/3339478

Lower Clunkamoor, Diptford, TOTNES, TQ9 7NL

- The application is made under the Town and Country Planning Act 1990, sections 174 and 322 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr William Staddon (Appeal A) and by Mrs Emma Staddon (Appeal B) for a full award of costs against South Hams District Council.
 - The appeals were against. against an enforcement notice regarding the creation of a stone surfaced track.
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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 arguments in respect to the appeal and the application for costs have been considerably broadened through the overlapping of issues relating to this appeal and another decision in respect of a prior notification application for an agricultural building (3808/21AG).
4. The applicants claim that the Council issued the enforcement notice without adequate consideration, appropriate care and precision with the requirements. It is vague, ambiguous and covers purported works carried out before the service of the notice. The Council failed to consider agricultural operations on the land or that the retention of materials in association with the agricultural building was permitted development (PD). The Council failed to consider harm caused by the breach, failed to adhere to their own guidance and that of the PPG in respect of expediency of taking action. This has caused the appellant to appeal the notice to protect their PD rights and the appeal could have been avoided had the Council considered the facts and approve the appropriate action. Concerns raised over the drafting of the notice were not responded to.
5. In response, the Council refer to their reasons (set out in the enforcement report) why they considered that the works were not reasonably needed for the purposes of agriculture. The requirements are precise and the identified breach was through engineering works and surfacing to create a track. The applicant's concern about

- having to appeal to protect PD rights is unclear as such rights exist and cannot be lost through the issuing of an enforcement notice.
6. Although the wording of the allegation is basically accurate I have corrected the allegation in my decision to delete reference to 'stone surfaced' for the avoidance of doubt, as the appellant has some concern over the original wording.
 7. The appellant considers that the stone removed from the track and stored on the area for the agricultural building to be used as materials for its construction, is permitted development. Similarly, topsoil is also stored in this part of the site. The appellant claims an entitlement to store the materials on the land under Part 4 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 GPDO as part of the development approved. As the stone removed from the track has remained in piles for a considerable period of time and not incorporated forthwith into the building, condition A.2(1)(c) is not met and therefore the claimed PD rights do not exist.
 8. The appellant has gone into considerable detail including reference to case law about issues relating to the Council's decision that prior approval was not required in respect of the proposed agricultural building (3808/21/AG). Regarding the second application to regularise an access track (4012/22/FUL), the Council received Counsel's advice that the decision in respect of the prior notification submission was unsound in the sense that the decision-making process was flawed. This led to the withdrawal of the regularisation application by the appellant. Notwithstanding the advice, the Council did not seek to take any action to rectify the situation and the decision that the agricultural building does not need prior approval still stands.
 9. Issue is taken that the Council rely upon the fact that the appellant had not commenced development to support their position in relation to the track, despite the appellant saying that the development had commenced incorporating stone from the track being incorporated into the foundations for the building. Reference is also made to the Council's view that the prior notification application was factually incorrect in that it referred to an existing access to the land.
 10. Whilst this is all part of the background leading up to the enforcement case, much of it is of marginal interest. The evidence shows that no application for prior approval was made for the track; that two applications for the retrospective approval of the track were submitted and subsequently withdrawn; and, there is no evidence to indicate that the appellant pursued the question over the soundness of the Council's decision over the agricultural building and cites the cost of judicial review for not doing so. The appellant lost the opportunity to appeal the likely refusal of the second retrospective application by the decision to withdraw it.
 11. Although the appellant states that the works for both the building and the track ceased voluntarily, at the behest of the Council, that again was their decision. The appellant asserts that the Council has erred by concluding that the track was not reasonably necessary because they had failed to consider whether the building was reasonably necessary for agriculture.
 12. The appellant claims that the Council does not go into any detail regarding harm arising from the laying of the track. However reference is made to relevant planning policy in the enforcement notice and in the Council's statement, which, albeit brief,

does not mean that this represents unreasonable behaviour leading to wasted expense.

13. Whilst the background to this case is unusual and has attracted considerable attention from the South Hams Society and a neighbour, much of the criticism lies with procedural irregularities in the determination of a prior approval notification which is not the matter under appeal. Whilst no doubt the Council could have approached matters differently there is no indication that their decision regarding the expediency of taking enforcement action over the track, their judgement on the planning merits or on any other matters associated with the case represents unreasonable behaviour.
14. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

P N Jarratt

INSPECTOR