



## Costs Decision

Site visit made on 21 May 2024

**by J Hills MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 June 2024**

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### **Costs application in relation to Appeal Ref: APP/W1145/W/24/3337646 Land at Dowland, northwest of Bradworthy, Devon EX22 7QX**

- 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 C Bond for a full award of costs against Torridge District Council.
  - The appeal was against the refusal of an application for planning permission for enlargement and conversion of agricultural to a holiday let unit.
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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 PPG states 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. An example of this includes 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.
4. The applicant considers that the Council behaved unreasonably and inconsistently by refusing the application despite providing positive pre-application advice. Some examples of other costs and appeal decisions are submitted by both parties that pull in different directions. However, within the applicant's examples, it is noted that the proposals were allowed or partially allowed, which is not the case with this appeal. Moreover, the detailed circumstances surround costs applications are case specific. I have determined this application on the evidence before me.
5. The Council's pre-application advice included a review of the proposed extension and highlighted that it was not considered to be so significant to the extent that it could not be supported. However, this advice was largely based on the stated compliance with the residential extensions Policy DM25 of the North Devon and Torridge Local Plan 2011-2031 (LP). Whilst the weight attributed to development plan policies is a matter of planning judgement, the principle of development section of the advice letter could have included a more rounded assessment of the proposed conversion and extension, including Policy DM27 of the LP.

6. As such, the applicant was led to believe that the nature and extent of the extension proposed was policy compliant. The applicant was therefore misled somewhat by the advice provided.
7. Nevertheless, the pre-application letter states clearly that the advice is not a formal decision by the Council, with views or opinions given in good faith, without prejudice to the formal consideration of a planning application. It adds that the final decision on any application can only be taken after the Council has consulted local people, statutory consultees, and any other interested parties. Additionally, it says that this advice will be carefully considered in reaching a decision or recommendation on any resulting applications; subject to the proviso that the circumstances and information may change or come to light that could alter the position.
8. In that context, it is not clear from the evidence that a full set of plans was provided or that the Officer visited the appeal site as part of the pre-application assessment. Furthermore, the Parish Council raised concerns during the determination of the application.
9. It is understood how the Council's actions may be frustrating for the applicant. However, the full considerations and various consultations within the planning application process would have evidently been known about. I have agreed with the Council that the proposal conflicts with the development plan. Therefore, it did not prevent development that should clearly be permitted, and the appeal could not have been avoided. Consequently, I find no unreasonable behaviour or any wasted expense in the appeal process.

*J Hills*

INSPECTOR