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| Mr Andy Dunlop  Hall Barn  Little Field Lane  Levisham  North Yorkshire  YO18 7NY | |  |  | | --- | --- | | Your Ref: for Ann Scott |  | | Our Ref: ROW/3227322 |  | | Date: 05 June 2025 |  | |

Dear Sir

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)**

**WILDLIFE AND COUNTRYSIDE ACT 1981 - SECTION 53(2)(b)**

**NORFOLK COUNTY COUNCIL**

**TITLE OF ORDER: NORFOLK COUNTY COUNCIL (THOMPSON, POCKTHORPE LANE) MODIFICATION ORDER 2018**

**APPLICATION FOR AN AWARD OF COSTS**

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to Inspector Sue Arnott’s interim decision of 27 March 2023 confirming the above order subject to modifications. The effect of the order, had it been confirmed as originally submitted to the Secretary of State, was as stated in the preamble to her decision. The inquiry into the order originally opened on 22 February 2022 but was immediately adjourned. It was eventually held on 15 – 17 November 2022. At the inquiry an application for an award of costs was made by Andy Dunlop, on behalf of the statutory objectors, Mr & Mrs Scott, against Norfolk County Council, as order making authority (OMA). Inspector Arnott prepared a draft cost decision in relation to this application.

2. An objection was made to the proposed modifications and as Inspector Arnott is no longer employed by the Planning Inspectorate, Inspector Mark Yates was appointed to consider it. A second inquiry was held on 26 November 2024 and the final order decision was issued on 30 April 2025. In respect of the costs application made on behalf of Mr & Mrs Scott at the first inquiry, Inspector Yates has prepared a costs report for the Secretary of State based on the submissions of the parties and Inspector Arnott’s conclusions. As he explains in the report, it was not appropriate for him to reach a decision on the costs application. A copy of his report is enclosed and forms part of the Secretary of State’s decision on the application.

3. During the first inquiry, an application for an award of costs was also made by Norfolk County Council against Mr & Mrs Scott. This is the subject of a separate decision.

**Summary of costs decision**

4. The costs application fails and no award of costs is being made. The formal decision is at paragraph 9 below.

# Basis for determining the costs applications

5.The application for costs have been carefully considered in the light of:

* the relevant costs guidance in the Government’s Planning Practice Guidance (PPG) which is applicable to rights of way cases by analogy with planning proceedings
* relevant published policy guidance on awards of costs in section 9 (“applications for costs”) in Defra Rights of Way Circular 1/09
* Inspector Arnott’s interim order decision
* Inspector Yates’ costs report
* the order papers
* and all the relevant circumstances.

6. In definitive map modification order proceedings, as for planning proceedings, the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of unreasonable[[1]](#footnote-1) behaviour by one party resulting in unnecessary expense to another party.

**The Inspector’s costs report**

7. The Inspector’s costs report summarised the parties’ costs submissions made at the first inquiry concerning the application by Mr & Mrs Scott against the OMA. The conclusions on the costs application are set out in paragraphs 25 to 39 of the report. Paragraph 39 states that Inspector Arnott’s conclusion regarding the costs application is that an award of costs would not be justified.

### Reasons for decisions

8. Having carefully considered the Inspector’s costs report, along with all the available evidence, the Secretary of State generally agrees with her conclusions and accepts that an award of costs would not be justified. No award of costs, on grounds of unreasonable behaviour resulting in unnecessary expense, is therefore being made against the Council.

**FORMAL DECISION**

9.For the reasons stated above the Secretary of State accepts the Inspector’s conclusions and refuses the application for an award of costs.

10. A copy of this letter has been sent to Mr Lawrence Malyon (Senior Legal Orders Officer) at Norfolk County Council.

Yours faithfully

E. R. Humphrey

ELIZABETH HUMPHREY

Authorised by the Secretary of State

to sign in that behalf

1. For the avoidance of doubt the Secretary of State does not consider that a costs application is, in itself, unreasonable. [↑](#footnote-ref-1)