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## Costs Decision

Site visit made on 10 December 2013

**by Philip Major BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 January 2014**

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**Costs application in relation to Appeal Ref: APP/P2935/A/13/2195630  
Shoreswood Farm, Ancroft, Berwick-upon-Tweed, Northumberland TD15  
2NQ.**

- 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 W Jackson for a full award of costs against Northumberland County Council.
  - The appeal was against the refusal of planning permission for the installation of an 800kW wind turbine and associated infrastructure.
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### Decision

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

### Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. In reaching my conclusions on this matter I have had regard to the written costs application made on behalf of the Appellant, and the written response from the Council.
4. The application for costs can be summarised shortly. In effect it is said that the Council did not communicate effectively with the Appellant and as a result there was no opportunity to submit further detail which might have led to a different application outcome. The Appellant believes this to be unreasonable behaviour, and the appeal could have been avoided.
5. Both parties have submitted information on the exchange of information during consideration of the application. Whilst the consideration period was lengthy it is clear that communication channels remained open, though I do note that some information appears to have been submitted later than it might have been.
6. Whatever the processes involved at that stage it is apparent that the Council took the view that it had sufficient information on which to base its decision prior to the Committee meeting of October 2012. The Officer's report sets out the case at that time and does not suggest that the information supplied is defective.

7. The Council is entitled to make a judgement, in this case a subjective judgement, on development applied for. As it believed that there was sufficient information already submitted on which to base that judgement there was no need to ask for, or allow, further material to be submitted. That would have led to delay. Whilst the Appellant considers that the opportunity to submit more information would have led to a different decision, and obviated the need for an appeal, the Council disputes that. There is no way of knowing if the Appellant or the Council is correct in that narrow point, but I doubt that a different decision would have been forthcoming even if the extra photomontage and other information submitted at appeal stage had been before the Council at application stage. The photomontages subsequently provided are an aid to judgement, but not a substitute for it.
8. Put simply, I do not accept that the Council behaved unreasonably. I am satisfied that the continuing concerns of the Council were put to the Appellant, and that new information would not have sufficiently allayed the Council's concerns such that an appeal could have been avoided. The Council was entitled to use professional judgement to make a decision based on the information at its disposal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

*Philip Major*

INSPECTOR