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## Costs Decision

Site visit made on 18 October 2021

**by Alison Fish BA (Hons) DipTP MRTPI**

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

**Decision date: 18 November 2021**

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### **Costs application in relation to Appeal Ref: APP/Q3305/W/21/3278611 Owley Farm, Ditchheat, Shepton Mallet BA4 6NB**

- 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 Messrs D and J Nash for a full award of costs against Mendip District Council.
  - The appeal was against the refusal of planning permission for change of use of land to form an extension to the garden, erection of a detached garage with associated landscaping and the construction of a landscaped bund (amendment to planning permission 2020/0740/FUL).
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance advises that costs may be awarded where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellants application for costs is based on the belief that the Council has failed to substantiate its reason for refusal and has acted inconsistently in its determination of this case in relation to similar proposals for bunds elsewhere.
4. The Council is of the view that its Officer Report dealt with the issues fully including addressing the issue of the approval of other bunds in the area and that as a result there was no need for an additional Statement of Case.
5. My decision on the appeal clearly indicates that, like the Council, I found the bund to be an unacceptable form of development. In addition, I found that the other bunds identified to me were not relevant to my determination of the appeal, as they serve different purposes. I considered the appeal on its own merits. On this basis, I am satisfied that the Council set out a clear and justified case.
6. It is for the decision-maker to exercise their planning judgement as to whether a fall-back option is a material consideration sufficient to outweigh the development plan. Whilst my view on this matter differs from the Council, it is clear that they have considered this issue in reaching their decision.
7. Accordingly, I do not find that the Council failed to properly evaluate the proposal or substantiate its reasons for refusal.

## **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason and having regard to all matters raised, an award of costs is therefore not justified.

*Alison Fish*

INSPECTOR

