
Costs Decision

Site visit made on 24 May 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 13th June 2022

Costs application in relation to Appeal Ref: APP/Y3940/W/22/3290727 West Street Farm, West Street, Great Somerford, Chippenham, SN15 5EH

- 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 Michael Llewellyn Palmer for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for change of use of land & 2No. agricultural buildings for the purposes of self-storage – resubmission of 20/07644/FUL.
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Decision

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

Reasons

2. 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 applicant submits that the Council has failed to consider important matters such as the changing nature of the farming business or other benefits of the proposal put forward. The Council's officer report demonstrates that it considered thoroughly the matter of the principle of development, and comments in its appeal statement refer to the existing farm business and diversification. The report also refers to suggested heritage related benefits. In reaching its decision the officer report demonstrates that the Council carried out a planning balance where it considered the benefits put forward. I am therefore satisfied that these matters were adequately considered by the Council and that it did not act unreasonably in this respect.
4. The applicant also submits that the Council has shown an inconsistent approach to decision making. In my appeal decision I have referred to the Fowlswick Business Park decision¹, where I found considerable differences between that proposal and the appeal proposal that justify a different conclusion.
5. The Council does not refer to the grant of consent for works to the hedgerow² or to the application for prior approval for the new access road in its appeal statement, even though these are relevant material matters that represent a notable change in circumstances following its decision and matters that were

¹ Council Reference: 17/03057/FUL

² Council Reference: PL/2021/08854

referred to in the appellant's appeal statement. The Council has given no explanation for this. It did however refer to these matters during the costs process. I consider this to constitute unreasonable behaviour on the part of the Council.

6. I now need to consider whether this unreasonable behaviour has resulted in unnecessary or wasted expense on the part of the applicant. The applicant has not suggested how the Council's unreasonable behaviour has resulted in unnecessary or wasted expense. The applicant introduced the matters at an appropriate stage within the appeal process, drawing the Inspectors attention to relevant material changes in a manner that was not unnecessary or wasted. The Council's failure to respond to these matters at the correct stage did not incur any additional expense for the appellant.
7. Therefore, although I have found that the Council acted unreasonably, I am unable to conclude that its unreasonable behaviour resulted in unnecessary or wasted expense on the part of the applicant. The application for an award of costs should therefore be refused.

A Tucker

INSPECTOR