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## Costs Decision

Site visit made on 27 March 2023

**by L Cuthbert BA(Hons) MSc MRTPI**

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

**Decision date: 18 May 2023**

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### **Costs application in relation to Appeal Ref: APP/Y3940/W/22/3307349 Follywood Farm, Brinkworth Road, Royal Wootton Bassett SN4 8DT**

- 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 & Mrs J Taylor for a full award of costs against Wiltshire Council.
  - The appeal was against the refusal of planning permission for a temporary mobile home for occupation by essential on-site equestrian worker.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities and the applicant considers that the Council have exhibited unreasonable behaviour on a number of these, most notably that the Council has persisted in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.
4. The Inspector on an earlier appeal<sup>1</sup> at Follywood Farm found that it was 'necessary for someone to be on hand to provide care for the horses at all times, and the relatively remote position of the site gives rise to a security need which bolsters the main requirement for someone to be able to provide for the care and welfare of the horses'. The Council's Planning Officer's report in relation to the appeal proposal before me now recognises the previous Inspector's findings.
5. Whilst the development proposes a new tenant and a new equestrian business, the need for someone to be on-site to provide for the care and welfare of the horses, as well as the remote position of the appeal site, has not changed. Both the previous Inspector and the Council themselves have accepted that there is a functional need for the on-site accommodation. This remains the case and the Council have failed to demonstrate why the new equestrian business, despite the brevity of the statement from the incoming tenant, does not benefit

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<sup>1</sup> APP/Y3940/C/20/3247225 and APP/Y3940/X/19/3243397, dealt with as a single appeal decision letter

from this recognised need for on-site accommodation. This constitutes unreasonable behaviour.

6. Furthermore, the decision of the Council to continue to object to the development on the grounds of lack of financial evidence, which the previous Inspector had noted was no longer required by the National Planning Policy Framework 2021 (the Framework), was also unreasonable behaviour.
7. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the Framework and the PPG. The applicant has been faced with the unnecessary expense of lodging the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that an award of costs is justified.

### **Costs Order**

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay Mr and Mrs J Taylor the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Laura Cuthbert*

INSPECTOR