



Costs Decision

Site visit made on 29 May 2024

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State

Decision date: 15 July 2024

**Costs application in relation to: Appeal Ref: APP/C1760/X/22/3309225
The Stables, Walnut Bungalow Wallop Road, Grateley, ANDOVER, SP11
7EB**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Schneider for a full award of costs against Test Valley Borough Council.
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development for use of land as a private garden in association with the dwellinghouse The Stables.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 appellant submits that the Council has not understood and applied the applicable law as regards the time when a use becomes lawful, this is a reference to the *Ocado*¹ case. However, as set out in my decision, the overriding planning event was the implementation of the 2016 planning permission² for change of use of The Stables to use as a dwellinghouse. Upon implementation of that permission a new chapter in the planning history of the site began and all former use rights were extinguished. The *Ocado* case was not therefore relevant. While I ultimately found that the Council's decision to refuse the LDC was not well founded, I am satisfied that, on the basis of the case put before them, their behaviour was not unreasonable. It follows that an award of costs in the terms applied for is not warranted.

Paul Dignan

INSPECTOR

¹ R (on the application of Ocado Retail Ltd) v Islington London Borough Council [2021] EWHC 1509 (7 June 2021)

² Council Ref. 16/01530/FULLN