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## Costs Decision

Site visit made on 12 November 2024

**by J Bowyer BSc(Hons) MSc MRTPI**

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

**Decision date: 09 December 2024**

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### **Costs application in relation to Appeal Ref: APP/Z3825/W/23/3330305 Tisserand Farm, Stane Street, Billingshurst RH14 9AE**

- 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 Mrs S Cross, Manorwood for a full award of costs against Horsham District Council.
  - The appeal was against the refusal to give approval under regulation 77 of the Conservation of Habitats and Species Regulations 2017 in respect of prior approval consent Ref DC/23/0263
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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 ('the 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. It goes on to explain that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. In this case, the applicant's Water Neutrality Report included details of water meter readings taken at the appeal site between July 2022 and January 2023. The applicant indicates that the site had been in use for pig farming during this period and photos of pigs and associated items at the site were provided to the Council. The Council had suggested in an email to the applicant that the interior of the buildings did not match photos taken at the site in 2017 and since. However, I have not been provided with these photos or any further detail to corroborate the claim, and the photos included within the applicant's statement did appear to me to correspond with features that I observed on site. I therefore find the comment in the Council's appropriate assessment disputing the legitimacy of the photo evidence to be unfounded and with no other clear information to the contrary, I have little reason to reject the applicant's position that pigs were kept at the site during the water meter monitoring period.
4. However, even if I were to find the Council's position in respect of the photos would in itself amount to unreasonable behaviour, its assessment did also go on to consider the case in the event that pigs were present during the monitoring period. From the information before me, I find no clear indication that the Council's overall position was tainted by its view in respect of the

photos and I am not persuaded that the matter of the photos caused the Council to act unreasonably in its overall assessment.

5. In addition, my reading of the Council's evidence does not suggest that it believes the applicant should have reverted to long-term pig farming use and provide evidence of the increased water use that would entail rather than providing evidence over a 6 month monitoring period as the applicant has asserted. The fact that the monitoring period covers only 6 months is noted in the Council's evidence, but the concern expressed is that water use associated with the proposal would be in perpetuity and that while the site *could* be used for pig farming, it is not in this use as demonstrated by past inactivity. To my mind, this is not indicative of a requirement on the applicant to engage in long-term pig farming resulting in wastage of water, but instead reflects the Council's view of the actual situation.
6. Ultimately, this view comes down to a matter of planning judgement about what the site is and would be used for. On the basis of the information before me, I have also found in my appeal decision that despite the past use for pig farming, the site is currently disused. I have further found no more than a theoretical prospect of a resumption of pig farming has been shown and that it is not clear that rejection of the appealed application would leave the applicant with no choice but to revert to using the site as an operational pig farm or indeed demand wastage of water to the detriment of designated European sites. Against this context, I consider overall that the Council exercised its judgment on this matter reasonably and I am satisfied that it has not behaved nonsensically or irrationally.
7. For these reasons, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

*J Bowyer*

INSPECTOR