The Planning Inspectorate

# Costs Decision

Site visit made on 12 April 2025

**by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**

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

**Decision date: 13 May 2025**

**Costs application (2)**
**in relation to Appeal Ref: APP/Q3305/W/24/3357776**
**Foxleigh Stables, Budge Lane, Blatchbridge, Frome, Somerset, BA11 5EH**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Carl Pitman for a full award of costs against Somerset Council.
- The appeal was against the refusal of the Council to grant planning permission for Retention of 4 stables/tack room and outdoor menage and construction of hay store.

## Decision

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

## Reasons

2. The Planning Practice Guidance 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 (for costs) submits that the Council's admitted failure to consider his email of 20 June 2024 which proposed limits on the use of the development was the reason an appeal was necessary. The email referred to, however, was very brief, the substantive part reading simply: "*I have received instructions from our client that the 4 stables and menage subject of this application are solely for the Applicants extended family use*"[1].

4. Although it is now contended[2] that the suggested limit on use could be achieved by the application of conditions, the applicant was, at the relevant time, wholly silent as to how a provision intended to overcome a prospective refusal reason was to be achieved. Important parts of the original submission were not changed. The Design and Access Statement makes several references to business use including weekend operation (which conflicts with the opening hours set on the application form) and although the DAS states at 6.12 that the '*applicant will accept a planning condition to restrict the use of the site as described above*', what is being referred to is unclear although it relates to concerns which differ from those addressed by

[1] The proposed Hay barn is not referred to
[2] Appellant Statement of Case

the 20 June email. Further, having validated the application the Council would not be obliged to accept such a significant change, particularly when it is not clear how the proposed restrictions would be expressed, whether in terms of conditions or other forms.

5. The restriction (in the email of 20 June) is expressed as '*for the applicant's extended family use'* whereas conditions suggested in the subsequent appeal statement propose: '*The land and building subject of this consent shall be used ……., solely for the Appellant's family's private recreational use and shall not be used for any commercial use or functions*'. Unlike conditions which restrict occupancy perhaps on grounds of employment or age, conditions which rely on terms such as 'family' or 'extended family' to restrict the use of land are, to my mind, unlikely to meet the tests set out in the Framework as to precision and reasonableness since enforcement of such a condition would likely require intrusive questioning of people, potentially including young people, as to their relationship with the named beneficiary of the permission.

6. This application for costs rests on a presumption that an appeal would not have been necessary had the Council acted on the decision of the Applicant to offer a restriction on use. I do not find this has been demonstrated. Whilst the Council may have been at fault in their handling of the email of 20th June, given the lack of clarity on the part of the appellant that I have described before, a refusal was not unlikely for other reasons. Consequently I am unable to conclude that unnecessary or wasted expense was thereby caused.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Andrew Boughton*

INSPECTOR