
Costs Decision

Site visit made on 31 March 2025

by **SE Hughes BA (Hons) PGDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3357720 Urchfont Garage, High Street, Urchfont, Devizes, Wiltshire, SN10 4QH

- 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 Gaiger Brothers for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for the demolition of existing buildings and construction of five dwellings and associated works.
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Decision

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

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. Unreasonable behaviour on the part of a local planning authority may include it making inaccurate assertions which are unsupported by any objective analysis, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant contends that in refusing planning permission and overturning its officers' recommendation of approval to the Eastern Area Planning Committee (planning committee), the Council prevented and delayed development which should clearly be permitted, having regard to its accordance with the development plan, the Framework and other material considerations. Despite the clear and robust guidance provided in the Officer's Committee Report and also verbally at the meeting, the Council's planning committee members wholly and unreasonably ignored this advice and instead issued a flawed and ill-founded reason to refuse the application and did not properly exercise their development control decision making responsibilities with inaccurate and incorrect interpretation and assertions about the development plan.
5. The Council responds that members are entitled to reach a different conclusion to officers, and that they considered the garage site acted as a locally valued rural service provider (evidenced by significant local opposition to the residential redevelopment of the site) and, whilst it was accepted the existing use was not strictly a community use, it was considered to be a viable and valued rural service that fell within the Framework and Wiltshire Core Strategy (WCS) policy 49

- protections. The site also having elements of mixed-use including offering storage to support the Urchfont Scarecrow Festival. This led members to vote to refuse planning permission.
6. The Council further responds that members of the planning committee accepted the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan 2015 – 2026 'Building on a Resilient Community' (UWLNP) was part of the development plan, albeit over 5 years old, so the site's housing allocation could be considered to be out-of-date. Furthermore, the identified conflicts with NPPF paragraph 88 and WCS policy 49 were material considerations that outweighed the out-of-date UWLNP site allocation.
 7. However, for the reasons set out in my appeal Decision, I have concluded that the UWLNP is up-to-date, including the housing allocation under policy H1. Furthermore, the existing garage use fails to fall under the remit of core policy 49 of the WCS. Given the statutory status of the development plan as the starting point for decision-making, with paragraph 11(c) requiring the approval of development proposals that accord with an up-to-date development plan without delay, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, the Council has clearly erred in its approach and there is no reasonable basis for the stance taken by its planning committee.
 8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

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 to Gaiger Brothers, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Wiltshire 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.

SE Hughes

INSPECTOR