



Costs Decisions

Site visit made on 29 April 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

Costs application in relation to Appeal A Ref: APP/P1133/W/24/3352984 Cross Park Farm, Road Past Welwyn Farm to Heath Cross, Heath Cross, Whitestone, Devon EX4 2HN

- 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 Darren Gorrett for a full award of costs against Teignbridge District Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for office building and associated works without complying with a condition attached to planning permission Ref 19/01872/FUL, dated 07.04.2020.

Costs application in relation to Appeal B Ref: APP/P1133/W/24/3352983 Cross Park Farm, Road Past Welwyn Farm to Heath Cross, Heath Cross, Whitestone, Devon EX4 2HN

- 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 Darren Gorrett for a full award of costs against Teignbridge District Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for plant room in association with approved office (19/01872/FUL).

Decisions

Appeal A

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

Appeal B

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

Procedural Matters

3. The applicant provides the same application for costs in relation to both appeals. The Council has likewise provided a single response covering both applications for costs. In light of this, I will consider both costs applications in this single Decision letter.

Reasons

4. 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.

5. The applicant states that the Council have acted unreasonably on both procedural and substantive terms. On procedural matters, the applicant states that the Council advised that it would not determine the applications due to separate matters than those the subject of the application despite suggesting that the application be submitted. The applicant also considers that the Council acted unreasonably in persisting in objections to a scheme or elements which the Secretary of State or Inspector¹ previously indicated to be acceptable.
6. In response, the Council state that it considers the newly constructed building to have all the attributes of residential accommodation rather than an office building and that this has changed the operative part of the original planning permission. As changes to the description of development cannot be made under a Section 73 application, the LPA consider that a new retrospective full application should have been submitted. The Council state that although they advised the applicant to submit the proposals, this was alongside advice that the proposal needed to fully comply with the approved floor plans, and it does not. Finally, the Council state that the appeal decision referenced was for a significantly different proposal to that the subject of the current appeals.
7. Although I have found in favour of the applicant in relation to both appeals in my main decisions, given the extent of internal and external changes to the office building in comparison to the originally approved development², and given the submission of floor plans that do not reflect the development on site, it is understandable why the Council decided that they could not determine the applications. Furthermore, the Council clearly explained its reasoning with the appeals providing an opportunity for the applicant to test the Council's position.
8. While the Council requested the submission of planning applications to regularise the development, this was on the basis that the applications fully complied with the original floorplans, and it has clearly been constructed differently.
9. Although I have found in my main decisions that I could not conclude that the main building was in residential use, the Council were entitled to reach a different decision following an internal inspection and as a matter of fact and degree. This is the case despite the comments from the Secretary of State or Inspector on a previous proposal as this was for a different development.
10. In light of the above, I do not find that the failure of the Council to determine the applications or follow the comments within an appeal decision for a different proposal represents unreasonable behaviour on procedural or substantive terms. A such unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
11. Applications A and B for an award of costs must therefore fail.

C Rose

INSPECTOR

¹ APP/P1133/W/24/3338008

² 19/01872/FUL