Planning Inspectorate

Costs Decision

Site visit made on 8 July 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2025

Costs application in relation to Appeal Ref: APP/M2270/W/24/3358188
Top Barn Farm, Gedges Hill, Matfield, Tonbridge, Kent TN12 7EA

- 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 Tunbridge Wells Borough Council for a full award of costs against JBR Investors Ltd.
- The appeal was against the refusal of prior approval for the change of use of a building and land within curtilage from an agricultural use to Class C3 (1 dwellinghouse) and associated building operations.

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. Awards against an appellant may be considered if late or incomplete evidence is submitted in the appeal process or when an appeal is made where previous decisions have established clear grounds for refusal.

3. The Council seeks a full award of costs on the grounds that the application had no reasonable prospect of success. The appellant submitted a prior approval application under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for the change of use of a building from agricultural to residential. However, both the appellant and the Council agreed that the site had not been in agricultural use for a considerable period, having been used as a vehicle repair workshop and MOT centre since at least the mid-1990s.

4. The appellant’s own appeal statement accepts that the site had long ceased to operate as part of an agricultural unit and had been in non-agricultural use for well over 10 years. Despite this, the appellant chose to proceed with an application which could not, on the facts presented, satisfy the basic qualifying condition under Class Q. This demonstrates a clear misapplication or misunderstanding of the legislative framework and amounted to unreasonable behaviour as defined in the PPG.

5. The Council had communicated this position clearly to the appellant prior to the determination of the application, yet the appellant did not withdraw the application

or provide any substantive justification for proceeding and also subsequently submit the appeal.

6. I consider that the Council was put to unnecessary expense in defending an appeal that had no reasonable prospect of success and should not have been pursued.

7. 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

8. 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 JBR Investors Ltd shall pay to Tunbridge Wells Borough Council, 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.

   The applicant is now invited to submit to JBR Investors Ltd, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Courtney

INSPECTOR