



Costs Decision

Site visit made on 22 July 2025

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2025

Costs application in relation to Appeal Ref: APP/E3335/X/23/3336155

Land at The Old Waterworks, Chipstable Road, Taunton, Somerset TA4 2PZ

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr T Morrow for a full award of costs against Somerset Council.
 - The appeal was against the refusal of a certificate of lawful use or development (LDC) for a garage and games room/office.
-

Decision

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

The Submissions

2. The reasons given for the costs application are summarised as follows:
 - The Council did not act professionally and failed to engage with the applicant in the LDC application process; and
 - The Council has misinterpreted The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 2015 Order) and the MHCLG Technical Guidance on permitted development rights for householders.
3. I have had regard to the Council's response to the costs application in reaching my decision.

Relevant Guidance

4. Paragraph 030 of the Planning Practice Guidance on Appeals advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Reasons

5. The interpretation of certain classes of the 2015 Order (Class E of Part 1, Article 3, Schedule 2, in particular) is a complex matter. Whilst the MHCLG Technical Guidance is of assistance, this also requires a degree of interpretation when considering the classes of development it refers to. I cannot agree that the interpretation of the guidance and the 2015 Order is as clear as suggested by the applicant when considered in the context of the site in question, where there is or would be such ground level changes across the site, both original, existing and proposed. Whilst I have not agreed with the Council's interpretation of the 2015

Order, I do not consider its interpretation of the relevant criteria of E.1. of Class E to be so irrational as to render its refusal of the LDC application unreasonable.

6. As for the conduct of the Council during the determination of the application, I note the email correspondence provided by the applicant, which shows that there was some discussion about the salient matters in this case between the parties at this time. I cannot, therefore, agree that the Council failed to engage with the applicant during the LDC application process. Furthermore, there is nothing before me to persuade me that the Council failed to act professionally in this case. That the Council was not persuaded by the case made by the applicant is not a demonstration of unreasonable behaviour, particularly in view of my findings above.
7. In my determination of this costs application, I am unable to take account of the Council's behaviour during its consideration of any applications made that are not the subject of the appeal before me.
8. All things considered, I do not find that unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has been demonstrated. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR