



Costs Decision

Site visit made on 26 August 2025

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Costs application in relation to Appeal Ref: APP/E3335/W/25/3367786 Land to the south of Westbrook Farm, Harp Road, Brent Knoll, Highbridge TA9 4HQ

- 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 Winterburn for a full award of costs against Somerset Council.
 - The appeal was against the refusal of planning permission for a new build dwelling.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the 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 Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the original application, although behaviour of the parties at this time can be taken into account.
4. The application for an award of costs and the response of the Council have been made in writing and will not be repeated here in any detail. The appellant considers the Council incorrectly interpreted the application. The officer report contained errors, including the number of dwellings and access arrangements, with no understanding that the existing barn would be demolished and a lack of consideration of betterment. There was no engagement with the appellant to resolve outstanding matters before a decision was made, and there was no proactive or positive behaviour on the part of the Council, nor recognition that conditions could address issues.
5. The appeal has been dismissed for substantive reasons. Procedurally the Council has complied with the appeal requirements and deadlines, including providing a statement and suggested conditions. The concern of the appellant focuses primarily upon the behaviour of the Council during the consideration of the original application.

6. There is an extant permission upon the barn to convert it to a dwelling. Although the submitted drawings show the barn would be demolished, in the event of the appeal being allowed the erection of the proposed dwelling would not by itself necessitate the demolition of the barn. In such circumstances, it was not unreasonable of the Council to consider that two dwellings could occur on the site, particularly as no legal agreement securing the demolition was provided.
7. For the appeal a revised Flood Risk Assessment was submitted that dealt with the proposed dwelling rather than the barn conversion, albeit a legal agreement securing the demolition of the barn was not provided at this stage. These would have been choices of the appellant, as would the reliance upon conditions to resolve these matters. The Council are obliged to suggest conditions without prejudice for the appeal, but this does not imply that all outstanding matters could be resolved through conditions. Given the circumstances of this case, the unresolved matters and ambiguities that remained were such that there could be no certainty that conditions could satisfactorily address the outstanding issues, and consequently it is not the case that development that should have been allowed has been prevented.
8. The Council has undertaken a consideration of a fallback, and this assessment included the matter of securing the demolition of the barn. It was not unreasonable of the Council to consider that the scheme could result in two dwellings on the site, and this is not an error on the part of the Council. In the absence of any pre-application discussions the Council has a policy of determining an application as submitted. Whether the appellant was aware of this approach has not been confirmed, and it would have been frustrating not to have been informed of a decision prior to it being made. Ultimately it would have been a decision for the appellant to make as to whether to appeal. Furthermore, for the appeal there remain ambiguities and uncertainties that have not been resolved despite the presence of reasons for refusal that were clear and precise.
9. There was an error in the officer report regarding the proposed site access, and this was remiss of the Council. However, this error did not have a bearing on the Council's decision, and so it has not resulted in unnecessary or wasted expense in the appeal process.
10. The consideration of applications involves matters of judgement that are at times finely balanced based on multifaceted evidence, and in this case considerations have been raised with the Council giving a different weight to the issues than the appellant. Given the circumstances of this appeal, including the nuances of the unresolved issues, the refusal of the application was justified, and it is not the case that development that should have been permitted has been prevented and delayed. Consequently, the decision to appeal would have been one for the appellant to make.
11. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

J J Evans

INSPECTOR