Planning Inspectorate

# Costs Decision

Inquiry held on 16-18 September 2025

Site Visit made on 16 September 2025


**by J Whitfield BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**



**Decision date: 28th October 2025**


**Costs application in relation to:**
**Appeal A Ref: APP/F0114/C/25/3364346**
**Appeal B Ref: APP/F0114/C/25/3364347**
**Appeal C Ref: APP/F0114/C/25/3364348**
**Appeal D Ref: APP/F0114/C/25/3364349**
**Weigh Bridge House, Fry's Bottom, Chelwood, Bristol, BS39 5QN**

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Bath and North East Somerset Council (the LPA) for a partial award of costs against Mr Stephen Willcox.
- The Inquiry was in connection with four appeals against an enforcement notices alleging:
  Appeal A - without planning permission, the construction of a dwelling house.
  Appeal B - 1. Without Planning Permission, the construction of a non-agricultural storage building in the approximate location marked 'A' on the attached plan. 2. Without Planning Permission, the importation of material and carrying out of Engineering Operations in the form of the expansion of a level area of hardstanding.
  Appeal C - without planning permission, the importation of material and carrying out of Engineering Operations in the form of the construction of access tracks, and construction of dams in a water course
  Appeal D - without planning permission, the change of use of land from forestry to a mixed use consisting of forestry, storage, firewood production, motorbike trials practice, equestrian, a waste transfer site and associated structure.

## Decision

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

## 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. The LPA's case is predicated on two grounds. Firstly, that the appellant behaved unreasonably in pursuing ground (a) appeals in respect of Appeal A and B before withdrawing them, without reason, before the Inquiry. Secondly, that the appellant has behaved unreasonably in raising new and substantive arguments in respect of Appeal D in their proofs of evidence which were not raised in their grounds of appeal or statement of case.

4. In respect of the first ground, the appellant's case was made on Appeal A on ground (a) on the basis that they sought planning permission under the deemed application for the retention of the building for ancillary forestry use and Appeal B

on ground (b) for the retention of a part-built forestry building. However, the LPA set out their view at the Case Management Conference (CMC) on 14 July 2025 that it was not open to me to do so, because such a development did not form part of the matters enforced against. I sought written legal submissions from the parties on that point within 2 weeks of the CMC with a subsequent extension of time to 4 August 2025 agreed afterwards.

5. On 1 August 2025, the appellant contacted the Planning Inspectorate indicating they were not intending to make submissions on the validity of ground (a) for Appeal A or Appeal B and instead wished to withdraw the ground (a) for Appeal A and Appeal B. No reasons were given.

6. Nonetheless, I do not consider that to be unreasonable behaviour. The appellant was within his right to bring the ground (a) appeals and they were duly brought. The fact that they were brought on a basis that the LPA considers was not appropriate having regard to Section 177(1)(a) of the Act is not in itself unreasonable. Just because the appellant did not argue the point, does not mean it was an unarguable point. Moreover, I do not see the failure to give reasons for their withdrawal of the ground (a) appeals as unreasonable. It seems to me that doing so was the appellant's acceptance of the LPA's legal position on Section 177(1)(a) and was done to avoid the need for further abortive work. It is not unreasonable in my view for the appellant to have considered their position in light of the discussion at the CMC and the LPA's evidence at Statement of Case stage and withdraw the grounds accordingly.

7. Turning to the second ground, the appellant's case in respect of Appeal D is made on the basis that the Land does not comprise a single planning unit in a mixed use, but rather multiple planning units in separate uses. Mr Downing on behalf of the appellant gave evidence to that effect in his proof and further at the Inquiry. The LPA says that this is an "almost" entirely new argument that was not made at the grounds of appeal stage, in the appellant's statement of case or at the CMC.

8. However, the fact that the LPA describe this as an "almost" entirely new argument suggests they were aware it may well have been a line pursued by the appellant. In an email from Mr Downing on behalf of the appellant to the LPA dated 16 April 2025 following the issue of the enforcement notice, Mr Downing said, "*the alleged change of use is that entire red line changed to a mixed use. That doesn't make sense. There cannot be a mixed use for equestrian and waste transfer station".* He also stated that, *"it cannot be sustainable that there is a use of the whole of the site as a waste transfer station"*.

9. In response on 17 April 2025, the LPA said, *"we consider the whole woodland to be one planning unit as there is no discernible boundaries between where the different uses are taking place. As we consider the site to be one planning unit, we have assessed the whole site is within a mixed use. From your question it would seem to imply that you consider there is a possibility that different planning units exist on with the land"*. To that end, it was apparent to the LPA prior to the appeal being made that the appellant took a different position on this issue and indeed that it was potentially going to be an issue raised on appeal. As a result, I do not consider the appellant's pursual of this point at appeal amounts to unreasonable behaviour.

## Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*J Whitfield*

**INSPECTOR**