



Costs Decision

Site visit made on 3 February 2026

by **P Barton BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 February 2026

Costs application in relation to Appeal Ref: APP/E3335/W/25/3374207

Meadow Way, Silver Street, Wells, Somerset BA5 1UN

- 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 Messrs G and M Phelps (executors of the Estate of George Philip James Phelps) for a full award of costs against Somerset Council.
 - The appeal was against the refusal of planning permission for erection of agricultural workers dwelling without complying with a condition attached to planning permission Ref 105034/004, dated 28 March 2000.
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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 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. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
4. Part 3 of Policy DP13 of the Mendip District Local Plan 2006-2029 Part 1: Strategy and Policies (MDLP) covers proposals for the removal of occupancy conditions for rural workers accommodation. Listed are 3 criteria to meet to enable such proposals to be supported. Criterion c) requires the dwelling to have been widely marketed on terms reflecting its occupancy conditions and no interest in occupation has been indicated.
5. The applicants' submission individually addressed each of the 3 criteria and in respect of c) accepted that the property had not been marketed. It clearly presented material considerations as to why, in their opinion, the proposal did not need to be automatically refused permission for non-compliance with this part of the policy.
6. Due to its wording, it is logical for the Council to structure its assessment around Part 3 of MDLP Policy DP13 and state that the lack of marketing resulted in it failing to comply with criterion c). However, there is a noticeable absence in the officer report of the material considerations presented by the applicants on this particular matter. In addition to no specific reference of these, there is no appraisal or indication to what weight, in the Council's opinion, should be attributed to them in

the planning balance. A lack of reference to valuation in Part 3 of MDLP Policy DP13 does not excuse the need for an objective analysis of the material considerations submitted on this issue.

7. The Council's Statement of Case expresses that the area of disagreement lies solely in the failure to undertake any form of marketing. Whilst this latter document does acknowledge conclusions made with regard to affordability, the Council has simply concluded that this has not been tested due to the failure to market the property, rather than appraising the presented material considerations. Moreover, the Council is silent on the appeal decisions submitted in support of the proposal, where the value of a tied dwelling was a material consideration.
8. As set out in my appeal decision, I have found no reason that the marketing of the property was necessary. The compelling case clearly evidenced, amongst other things, that the unchallenged estimated value of the property would far exceed that which a rural worker, who would meet the requirements of the occupancy condition, could realistically afford, as well as the availability of more affordable housing nearby. This characterises a reasonable justification for a departure from criterion c). It has resulted in the prevention or delay of development that should be clearly permitted having regard to its accordance with the development plan, national policy and any other material considerations.
9. Moreover, on the basis of the evidence before me, I am not convinced that if the applicants had undertaken pre-application discussions with the Council, it would have resulted in a different outcome.

Conclusion

10. The Council's approach to the application of criteria c) and lack of a thorough appraisal of the presented material considerations constituted unreasonable behaviour in this particular case. This has led to unnecessary and wasted expense on the part of the applicants. A full award of costs is therefore justified.

Costs Order

11. 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 Somerset Council shall pay to Messrs G and M Phelps (executors of the Estate of George Philip James Phelps) the costs of the appeal proceedings described in the heading of this decision.
12. The Applicant is now invited to submit to Somerset Council, who have also been sent a copy of this decision, details of those costs with a view to reaching agreement as to the amount. If the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.

P Barton

INSPECTOR