



Costs Decision

Hearing held on 3 March 2026

Site visit made on 3 March 2026

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th April 2026

Costs application in relation to Appeal Ref: APP/E3335/W/25/3369834

Woodlands Castle, Ruishton Lane, Ruishton, Taunton TA3 5LU

- 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 Tim Jones, Belstone Fox Ltd for a full award of costs against Somerset Council.
 - The appeal was against the refusal an application for a Hybrid Planning application for Outline Planning permission with some matters reserved (except access, scale and layout) for the erection of 16 No. dwellings and Full Planning permission for the change of use of Woodlands into 1 No. dwelling and erection of 2 No. dwellings and erection of a 70 No. bedroom care home at Woodlands Castle, Ruishton Lane, Ruishton.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr Tim Jones, Belstone Fox Ltd

2. The costs application was submitted in writing with the applicant stating that the Council has acted unreasonably in preventing or delaying development which should clearly be permitted as it is considered that the benefits of the proposal clearly outweigh any harm.
3. Furthermore, it is stated that the following elements of the Council's case individually demonstrate unreasonable behaviour:
 - its change in position from substantial harm to less than substantial harm, citing harm to the setting of the listed building and need for a speedy decision given the condition of the building.
 - that there were intended views north from the listed building towards the Quantock Hills.
 - as the Council wrongly state that the parkland was expanded in the mid-late C19 by Richard Carver.
 - that the Conservation Officer at the Hearing stated that she had only viewed the site from the public domain.
 - confirmation from the Conservation Officer at the Hearing that she had not looked at the detailed design of the Care Home.
 - the Conservation Officer at the Hearing being unable to articulate her objections on the grounds of scale and massing and agreeing that the Care

home was the best location for the development and that the design of the Care Home was acceptable.

- failure to continue to engage in dialogue, particularly regarding viability negotiations that were cut short, and timing of the Council's decision.
 - that the Council's objections to the elements of the scheme in outline form could have been resolved by condition.
4. As a result, the applicant states that the Council has acted unreasonably, causing the applicant unnecessary and wasted expense by preventing or delaying development which should clearly be permitted, presented a vague, generalised or inaccurate case unsupported by objective analysis and applied the wrong policy tests without having regard to material considerations.

The response by Somerset Council

5. The response was made in writing stating that it strongly refutes the accusation of unreasonable behaviour and robustly defended its decision to refuse the planning application.
6. Furthermore, the Council state:
- that the matters of dispute relate to the assessment of the level of harm and the weight to be attributed to the harms and benefits, followed by an appropriate balancing exercise.
 - that an award of costs should not be made where matters of judgment are involved and where both parties have clearly set out their positions.
 - refusing an unacceptable scheme cannot be construed as unreasonable behaviour.
 - that the Council should not accept a poor scheme due to time pressures.
 - the criticism of the Council's heritage assessment is unfounded. Whilst the Council's Heritage Officer changed between the application stage and appeal stage, this was outside of the Council's control. Furthermore, the appeal was by way of an informal hearing, and the Council does not accept that it fundamentally changed its case.
 - while the Conservation Officer had not entered the site, the Council holds considerable information to inform its case.
 - the applicant seems to have dealt with the appeal as if it were a Public Inquiry with officers in attendance not 'witnesses'.
 - there is no evidence to demonstrate that the Council refused permission in an attempt to shore up its position in connection with the Brookfield Nursery appeal with the decision made on the final day of the Public Inquiry long after deadlines for the submission of evidence had been given.
 - it is not the case that agreement could have been reached had the application not been refused and the applicant clearly does not understand the fundamental flaws in its case. As it was clear after 6 months that the

Care Home element was non-negotiable, the Council had legitimate grounds to refuse the application.

- with regard to the lack of opportunity to provide further comments regarding viability that could have negated the need for the Hearing, it should be noted that the applicant refused to cover further costs, with previous costs remaining unpaid.
7. As a result, the Council does not accept that it has acted unreasonably with the reasons for refusal well founded and defended robustly.

The response by Mr Tim Jones, Belstone Fox Ltd

8. The response was made in writing stating that whether or not the Council's officer is referred to as a 'witness' or 'officer' it remains the case that their evidence is in a professional capacity and should be prepared with the same rigour. The applicant goes on to state that the appeal being an informal hearing does not in any way lessen the standard to which expert evidence should be prepared or affect the methodology that should be applied.

Reasons

9. 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.
10. I acknowledge the change in Conservation Officer between the determination of the application and the appeal. I also acknowledge that the Council undertook balancing exercises when considering the proposal. Nonetheless, the Council changed its position in relation to the degree of harm to the significance of the listed building from substantial during the determination of the planning application, to less than substantial during the appeal. This change of position necessitates a different test being applied to the proposal. Although I do not find that this change prevented or delayed development which should clearly be permitted given the Council's written appeal evidence and case related to less than substantial harm, it nonetheless resulted in work for the applicant's team in addressing substantial harm in its Appeal Statements of Case and in preparing to rebut the Council's changed case prior the Hearing. I find that this led to unnecessary and wasted expense in the appeal process by the applicant.
11. Despite this, I find no reason to conclude that the Council officer's gave evidence in anything other than a professional capacity and to an acceptable standard during the appeal. Furthermore, the Council detailed and justified its case having regard to the development plan and material considerations. The Council therefore used its judgement and adequately justified its position with regard to less than substantial harm to the listed building through development within its setting, the public benefits not outweighing the harm and the adverse impacts significantly and demonstrably outweighing the benefits. I have no reason to conclude that the Council did not take the condition of the building and timescales into account when making its case.
12. With regard to the other submissions from the applicant, I acknowledge that the appeal decision at Brookfield Nursery clarifies that there were no intended views

- north from the listed building towards the Quantock Hills, but the appeal decision pre-dates the Officer Report and this claim was not made orally at the Hearing.
13. While the Council states that the parkland was expanded in the mid-late C19 by Richard Carver, I do not find that this goes to the heart of the Council's Case with the effect upon the landscape covered orally by the Council at the Hearing.
 14. Although the Conservation Officer present at the Hearing had only viewed the site from the public domain, I accept that the Council hold information in relation to the site to enable the Conservation Officer to make an informed decision and have little substantive evidence before me that the position would have changed significantly had she been onto the appeal site.
 15. While the Conservation Officer at the Hearing stated that she had not looked at the detailed design of the Care Home, it was clarified that it was its scale and mass that was of concern. Although the evidence in this regard was relatively short in detail orally, in conjunction with the Council's written evidence, it was adequate in explaining the Council's concerns. It was nonetheless helpful to the Hearing that the Council raised no concerns to the detail design of the care home and accepted that its position on the site was the least harmful.
 16. Given the differences in the positions of the main parties, particularly with regard to the scale and mass of the care home and in relation to viability, with the scale and mass of the care home seemingly non-negotiable, and with a failure to cover the Council's viability costs as agreed, I do not find that a failure to continue to engage in dialogue clearly resulted in refusal of a proposal that would otherwise have been granted planning permission. For similar reasons, and in the absence of substantive evidence demonstrating otherwise, I cannot conclude that the Council's objections to elements of the scheme in outline form could have been resolved by condition.
 17. Finally, I have limited substantive evidence before me demonstrating that the timing of the Council's decision was clearly related to the Brookfield Nursery appeal or otherwise unreasonable, noting in particular that the decision was issued on the final day of the Hearing.
 18. In light of the above, I find that unreasonable behaviour on substantive grounds resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated in relation to work caused to the applicant by the Council through a change in its position in relation to reducing the harm to the listed building from substantial at the time of the decision to less than substantial as part of the appeal. I am satisfied however that the Council adequately justified and evidenced its refusal of permission and did not act unreasonably in refusing planning permission in relation to the other submissions by the applicant.
 19. Accordingly, I am of the view that unreasonable behaviour as described in the PPG has been demonstrated on the part of the Council and has resulted in the applicant's unnecessary expense in addressing the substantial harm argument in its Statements of Case and in preparing to address the changed case at the Hearing. A partial award of costs in relation to the preparation of evidence related to addressing the Council's position in relation to substantial harm and change to less than substantial harm only is therefore warranted.

Costs Order

20. 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 Mr Tim Jones, Belstone Fox Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred connected with addressing the Council's position in relation to substantial harm to the listed building and subsequent change to less than substantial harm, such costs to be assessed in the Senior Courts Costs Office if not agreed.
21. The applicant is now invited to submit to Somerset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Rose

INSPECTOR