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## Costs Decision

Hearing held on 10 June 2026

Site visit made on 10 June 2026

**by R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 August 2026

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### **Costs application in relation to Appeal Ref: APP/E3335/X/26/3378120**

#### **Cornish Farm Touring Park, Cornish Farm, Shoreditch, TAUNTON, TA3 7BS**

- 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 Sovereign Park Homes Estates Ltd for a full award of costs against Somerset Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development for Use of the land as a caravan site for static caravans occupied for the purposes of human habitation.
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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 (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.

#### *Case for Sovereign Park Homes Estate Ltd ('the Appellant')*

3. The Appellant makes it clear that although there was no reason given for the lack of determination of the application, it seeks costs for the appeal alone. The nub of the case for costs is that the application should clearly have been approved. Not doing so led to an appeal where there was no chance of the Council succeeding. This was unreasonable behaviour that led to unnecessary costs to the Appellant.
4. This was evidenced by the Council: never making its case clearly; failing to keep to the appeal timetable; failing to advance a substantive case to counter clear case law; providing arguments that were not in its Statement of Case ('SoC'); incorrectly using case law; failing to substantiate its case that the original planning permission restricted occupation of the caravans to temporary accommodation; inaccurately identifying the baseline position for an assessment of whether a material change of use would occur were the appeal to be allowed; and failing to justify its position, which was flawed anyway.

#### *Somerset Council's Response ('the Council')*

5. In response to Appellant's claim, the Council says the following. Rather than demonstrating unreasonable behaviour that led to unnecessary expense, the

Council says that in its costs' application the Appellant has merely rehearsed arguments it put forward at appeal.

6. It goes on to say: Given the differences between the parties, the argument that the application should have been approved is unconvincing; it kept to the timetable throughout; its position was clear throughout and that it identified that there was no issue with tourers and statics in good time and identified that its issue was with the permanent residential accommodation of the caravans; the Appellant's application for caravans for "human habitation" was unclear, however, and was only defined at the Hearing; the Appellant's vagueness was exemplified by its trying to reverse the burden of proof by asking the Council to justify its case; it did not submit fresh and substantial late evidence, as reference to the content of the application form on which part of the Council's case was based was made in the Appellant's own submissions.
7. In conclusion it says that it did not act unreasonably and that there was no unnecessary expense to the Appellant.

### *Findings*

8. The substantive part of the Appellant's application for costs is that the certificate should have been issued within the statutory period, and that it should not have been necessary to take the matter to appeal. That the Council did not make a timely and correct decision, nor review its position during the appeal process, was to the Appellant unreasonable behaviour leading to unnecessary expense. Although it did refer to its appeal arguments in the costs' application, the Appellant did not merely rehearse what it had previously said. It was necessary to make these points to substantiate its claim. I found this was also the case where, in its Costs rebuttal, the Council quoted extensively from its Statement of Case to illustrate a point.
9. I find that the Appellant's application for a certificate clearly sought to establish that the unrestricted use for human habitation, itself a term used in statute<sup>1</sup>, of caravans on the land would be lawful. Had the Appellant sought a certificate with restrictions, he would have said so. Had the Council found the term to be vague it could have sought clarification from the Appellant, but it did not. In any event, read in an ordinary manner the certificate clearly sought to establish unrestricted occupation of the caravans.
10. When issued, planning permission 30/1999/028 provided controls on the number of caravans on the land and the duration that a caravan might be sited there through its description, condition 4 and condition 7. Less obviously, the temporal aspect of condition 7 placed an effective preclusion on the siting of static caravans.
11. This remained the case until 27 September 2024 when, under application reference 30/23/0021/LEW, the Council issued a certificate of lawfulness for non-compliance with condition 7 of planning permission 30/1999/028. Thus, the 28-day limit for the siting of caravans, as well as the need for occupants to register their arrival and departure, was lost.
12. Whilst the condition remains on the permission, its terms cannot, as was agreed by the parties, be enforced. This is important in assessing an application for a

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<sup>1</sup> Caravan Sites Act 1968

certificate, the decision on which is to be based on the Council's ability to enforce against the use proposed and whether there is an enforcement notice precluding the use proposed. There was no such notice.

13. Given the decision to issue a certificate for the non-compliance of condition 7, neither it nor its reason can play any part in controlling the duration that caravans can be sited or the manner of their occupation.
14. That the application form for application 30/1999/028 referred to a 'touring caravan site' is, to my mind, immaterial. It might have been the Appellant's original intention to apply for this, but that is not what the Council's description of development on its decision notice stated. Its terms are unequivocal.
15. Thus, the Council's arguments that condition 7, in particular its reason, and the application form support this position were fundamentally flawed and were not substantiated. It did not make an decision on the application, which did not help and left the Appellant little choice than to lodge an appeal. It then pursued its case at appeal in the light of evidence that clearly pointed in the opposite direction.
16. The position post-decision on application 30/23/0021/LEW was the baseline for any assessment as to whether there would be a material change of use of the land were the certificate to be issued. From that date, as the controls on the use of the site in condition 7 had fallen away, matters such as full-time occupation of the caravans together with associated traffic generation and the like could occur lawfully under the remaining terms of 30/1999/028.
17. Thus, I find the Council's actions, above, amounted to unreasonable behaviour. It led to an appeal in which unnecessary costs were incurred by the Appellant.
18. This is the substantive case put forward by the Appellant so, having found that its costs' claim in this regard to be well made, I need only look at the other matters briefly. For the most part, I find them to have been part of the cut and thrust of the Hearing process. It might be argued that some of the Council's actions were unreasonable, such as the late submission of the Statement of Common Ground that had been altered without consultation. However, none of those other matters reached the threshold of unreasonable behaviour that led to unnecessary expense.

### **Costs Order**

19. 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 Sovereign Park Homes Estates Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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.

*R Curnow*

INSPECTOR