
Costs Decision

Hearing held on 28 July 2026

Site visits made on 27 and 29 July 2026

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing Communities and Local Government

Decision date: 18 September 2026

Costs application in relation to Appeal Ref: APP/E3335/W/25/3375062

Land At Great Dunns Close, Beckington, Frome, Somerset, BA11 6AJ

- 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 Cotswold Homes Ltd & Redrow Homes Ltd for a full or partial award of costs against Somerset Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 20 dwellings (including affordable housing) with associated highway access, public open space, landscaping & external works, including demolition of an outbuilding & installation of a sewage pumping station & electricity sub-station.
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Decision

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

The submissions for Cotswold Homes Ltd and Redrow Homes Ltd

2. The costs application was submitted in writing. The application is for a full award of costs, or in the alternative a partial award. Unreasonable behaviour both on procedural and substantive grounds is asserted. The main points of the application are set out below.

Procedural

3. The Council unreasonably deferred consideration of the proposal, resulting in avoidable delay, without good reason. The Appellants and Council officers had agreed that a condition could address the matter of drainage. The Planning Committee was therefore unreasonable in determining that drainage should form the basis of a reason for refusal. Thereafter the Council sought to add additional reasons for refusing the scheme.
4. At the appeal stage the Council failed to agree factual matters or clarify their case in relation to heritage matters, leading to more time being spent by the Appellants than would otherwise have been necessary.
5. The Council's hearing statement unreasonably expanded the third reason for refusal beyond its natural meaning, which resulted in the introduction of new evidence, requiring extra preparatory work by the Appellants to address a new reason for refusal.

Substantive

6. The Council failed to follow the advice of its own heritage expert who recommended approval of the scheme. The planning committee rejected that

advice with no expert evidence to support that position. The Council failed to substantiate the heritage refusal at appeal.

7. The Council's case on heritage contradicts a previous Inspector's findings on the heritage balance. The Council has asserted harm in direct contradiction of a previous finding on the same site and against the advice of its own heritage expert. This amounts to making vague and generalised assertions unsupported by objective analysis.
8. The Council now accepts that the matter of drainage from the site is capable of being addressed by condition. That was the position when the scheme was considered by the Planning Committee. It was unreasonable to refuse the scheme in those circumstances on drainage grounds. Subsequent to the refusal another scheme was permitted nearby with a condition dealing with drainage. The Council has therefore been unreasonably inconsistent in decision making and failed to take account of the previous decision relating to this site.
9. The third reason for refusal is unreasonable however it is interpreted. The decision of the Council was inconsistent with the permission granted on the nearby site. In addition the Council has not provided evidence to support its case either on locational or capacity grounds. The Council's case is vague and unsupported by objective analysis.

The response by Somerset Council

10. The response was made in writing. The main points are set out below.

Procedural

11. Drainage is a material consideration for the Planning Committee to consider. The mitigation agreed now was different to that which went before the Committee at its first meeting. Therefore the deferral and actions of the Committee were not unreasonable.
12. At the second Committee meeting the Council was entitled to consider all matters as no decision had been taken at the time. It was not unreasonable to do so, or to impose the reasons for refusal decided upon.
13. The Council's case dealt properly with the concerns relating to the scale of growth in Beckington as encapsulated in the third reason for refusal.

Substantive

14. In relation to heritage matters this is a different scheme to that considered by a previous Inspector. The Planning Committee was entitled to reach a different conclusion to that of officers on the balance between impact and harm.
15. The matter of drainage was resolved between the parties during the appeal process and mitigation agreed. There was no unreasonable behaviour.
16. The Council has justified its stance on the third reason for refusal and no unreasonable behaviour has occurred.

Reasons

17. 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.

Procedural matters

18. In considering any application for development members of the Council are entitled to disagree with officers. Therefore a decision to defer a decision on an application is not, of itself, unreasonable. There has been longstanding concern in relation to foul drainage in the village and I do not find that it was unreasonable for the members to seek further reassurance on this matter. That said it is apparent that Wessex Water would be able to accept the sewage from the development, and that the Council officers and Appellant had agreed the matter could be dealt with by condition. In such circumstances there would be no reason to defer the application without substantive evidence to justify the deferral. No such evidence has been forthcoming. The deferral was therefore procedurally unnecessary and caused a short delay in considering the proposal. This was unreasonable.
19. When reconsidered the Council members retrenched in their opposition on drainage grounds despite the reassurance of the officers that this was a matter which could be mitigated by condition. Furthermore the addition at that stage of extra reasons for refusing the application went beyond the first consideration of the proposal. Although the members were entitled to deliberate the full scheme afresh it was in the face of advice that there were no substantive grounds to refuse permission.
20. In relation to the heritage matters I am not persuaded that the Council acted unreasonably in the process. As noted, members can disagree with their officers and that is not unreasonable per se, so long as it is backed by clear evidence. That is a matter which goes to the substantive matters at issue.
21. So far as the overdevelopment issue is concerned it is apparent that the Council's case was something of a moving target and I understand why the Appellants were unable to fully understand the case which had to be addressed. This lack of clarity, and vagueness was an unreasonable imposition on the Appellants' ability to address the Council's concerns.
22. Having noted all of the above it is my judgement that the Council could have processed the application somewhat more expeditiously. There was sufficiently clear procedural unreasonableness to warrant the awarding of costs on procedural grounds in part. However, the more important matters to address in relation to the costs application are the matters surrounding the allegation of substantive unreasonable behaviour. I turn to that next.

Substantive matters

23. The Council continued to allege that the development of the site would be unacceptably harmful to heritage assets despite the finding of a previous Inspector that that would not be so. It is right that the previous scheme was different to that before me, but the former scheme envisaged a greater quantum of development. The current proposal, in being of more modest scale, cannot reasonably be said to

introduce a similar level of harm. In its documentation and hearing presentation the Council failed to provide any level of evidence which adequately supported its stance. There was no respectable basis developed for taking a contrary view to its own conservation officer, or the considered reasoning of the previous Inspector. There is a clear failure to substantiate the heritage reason for refusal and to take account of the findings of the previous Inspector in relation to heritage matters. This amounts to unreasonable behaviour.

24. There has been long standing concern in relation to sewage disposal in Beckington, which I understand. However, the current scheme has been developed over time in consultation with the relevant authorities and there is an agreed mitigation strategy. Whilst I recognise the Council's concerns, there should be evidence to back up those concerns. Here, it is clear to me that the appropriate authorities dealing with both sewage and surface water disposal were content that the application could be permitted subject to conditions. Although the exact nature of the conditions continued to evolve there has been no evidence produced to substantiate the suggestion that there was insufficient information produced, and that planning permission should therefore be refused. The reason for refusal dealing with sewage and surface water disposal has not been substantiated by objective evidence and could in any event have been dealt with by the imposition of suitable conditions. Refusal for this reason was therefore unreasonable.
25. The third reason for refusing permission alleges that 20 new homes would constitute overdevelopment amongst other things. The reason for refusal has simply not been substantiated with evidence. I find the defence of this reason by the Council to have been unclear and lacking in objective analysis. To defend the refusal as well as then granting planning permission for a larger scheme on nearby land defies logic and demonstrates inconsistency in decision making. The Council has sought to block development on the appeal site unreasonably.
26. Taking all of the above into account I am satisfied that the Council has acted unreasonably in refusing planning permission for this development. It has not provided any respectable evidence to support its position. This is a case where development has been prevented which should clearly have been permitted. I therefore find that a full award of costs is justified.

Costs Order

27. 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 Cotswold Homes Ltd & Redrow Homes 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.
28. 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.

Philip Major

INSPECTOR