Planning Inspectorate

# Costs Decision

Site visit made on 12 August 2026

**by David Jones BSc (Hons) MPlan MRTPI**

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

**Decision date: 9 October 2026**

**Costs application in relation to Appeal Ref: APP/D3125/X/25/3375634**
**Sturt Farm, Oxford Road, Burford OX18 4ET**

- 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 West Oxfordshire District Council for a full award of costs against Mr S Fitzsimmons (Sturt Farm Burford Ltd).
- The appeal was against the refusal of a certificate of lawful use or development for the use of the identified barn for agriculture.

## 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 PPG states that an appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding[1]. In the non-exhaustive list of examples where this might occur, the paragraph makes it clear that in lawful development certificate (LDC) appeals the onus of proof in matter of fact is on the appellant.

4. The Council argue that the appeal had very little merit and consequently had no reasonable prospect of succeeding. The appellant sought an LDC on the basis that the identified building had an existing lawful use for agriculture. The Council's decision notice and delegated report identified a single reason for refusal. That was that the Council considered that the building concerned fell within an area for which planning permission[2] had been granted for residential use, and therefore a new "planning chapter" had commenced and any pre-existing lawful use had been extinguished.

5. It is evident that after receiving the refusal, the appellant set about seeking to address this single reason for refusal through the appeal. To my mind, the appellant adequately responded to the single reason for refusal and provided the necessary evidence to support his case. As can be seen from my main decision, I found in favour of the appellant in respect of that matter.

[1] PPG Paragraph: 053 Reference ID: 16-053-20140306
[2] Council Ref: 19/01515/PN56

6. It was not until the submission of the Council's appeal statement that additional reasons why the Council considered that a LDC should not be granted were raised. This left the appellant with little opportunity to respond to these matters which were raised relatively late in the appeal process. I also sympathise with the appellant's task in this regard given the unnecessarily long-winded and at times repetitive statement of case provided by the Council.

7. It is the applicant's right to appeal a decision. Furthermore, it is best practice for the Council to enter into constructive discussions with an applicant and for there to be an opportunity to amend an application before it is determined, which could avoid the necessity to appeal. There is little evidence before me to suggest that there were any significant discussions between the parties earlier in the process, or that the appellant was aware of the various other issues and potential reasons for refusal that the Council subsequently raised in its statement of case.

8. Nevertheless, the onus of proof is firmly on the appellant to demonstrate their case on the balance of probabilities. As is evident from my main decision, I found that the burden of proof had not been met, and that the evidence provided regarding the agricultural use of the existing building fell some way short of being persuasive enough to warrant the issuing of a LDC. However, that in itself is not grounds for an award of costs against the appellant.

9. The appellant had the right to appeal, and to produce any evidence considered necessary through that process. With that in mind I do not consider that the appeal could have been avoided, and understandably the appellant's case focused on the Council's reason for refusal. Whilst the appeal was ultimately dismissed, in my view the appellant substantiated his case to an acceptable standard.

10. Consequently, the appellant has not behaved in a manner similar to the examples of unreasonable behaviour in the PPG relating to the substance of the appeal. Accordingly, I do not consider that the appeal was without merit or that it had no reasonable prospect of success.

**Conclusion**

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred, and a full award of costs is not warranted.

*David Jones*

INSPECTOR