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## Costs Decision

Hearing held on 6 July 2016

Site visit made on 6 July 2016

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 05 August 2016**

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**Costs application in relation to Appeal Ref: APP/L3245/W/16/3145566  
Barn to the South of Heath Farm, Yockleton Road, Cardeston, Shrewsbury  
Shropshire SY5 9NN**

- 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 Julian Record of Record Associates for a full award of costs against Shropshire Council.
  - The hearing was in connection with an appeal against the refusal of prior approval for change of use of an agricultural building to a C3 dwelling house.
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
  3. The Council's concerns centred upon the suitability of the building for agriculture and the possibility that it may have been in domestic use on 20<sup>th</sup> March 2013. Whilst I was not persuaded by the evidence in support of these arguments, I nevertheless accept that the local planning authority had reasonable grounds for doubt regarding the use of the building. The Order places the onus upon the developer to provide sufficient information to show that the proposal complies with the relevant limitations and restrictions. In light of this, I am satisfied that the Council's behaviour in refusing the application was not unreasonable.
  4. In the event, the appeal did not succeed because of the failure to demonstrate that the building was in use for the purposes of a trade or business on the relevant date. Although the appellant's evidence was prepared in response to the refusal reason, which was framed differently, it was essential to establish the facts of the case (particularly in terms of chronology of events). Accordingly, I consider that the evidence was a necessary part of the appeal process.
  5. Local planning authorities are advised to approach decision-taking in a positive way and early engagement is actively encouraged. There is no firm evidence of lack of co-operation in this case and I note that there was communication between the parties at the pre-application stage and during the course of the
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- application. I acknowledge that the appellant feels aggrieved that this did not alter the outcome. However, I can find no grounds for concluding that the Council behaved unreasonably in its handling of the case.
6. The invitation for me to consider whether the building is structurally suitable for conversion was effectively introducing a new reason for refusal. This was unreasonable behaviour as it did not allow the appellant sufficient opportunity to commission a structural report in advance of the hearing. However, my decision did not turn on this matter and therefore the appellant has not been prejudiced. Moreover, it has not resulted in unnecessary or wasted expense.
  7. As regards the other matters raised, the decision of the case officer to visit the site without an appointment was not unreasonable behaviour. Whilst I note the appellant's concern regarding consistency of decision making, consideration of design and external appearance requires the exercise of judgement and each proposal must be considered on its own merits.
  8. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. An award of costs is therefore not justified.

*Robert Parker*

INSPECTOR