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## Costs Decision

Site visit made on 11 December 2013

**by Roy Curnow BSc(Hons) MA(TCP) CMS MRTPI**

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

**Decision date: 10 February 2014**

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### **Costs application in relation to Appeal Ref: APP/R3325/A/13/2201969 Land Opposite Bridge Horn Farm, Henley, Langport, Somerset, TA10 9BG**

- 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 S Cowling for a full award of costs against South Somerset District Council.
  - The appeal was made against the refusal of planning permission to provide 2 storage containers for agricultural purposes.
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### **Decision**

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

### **Reasons**

1. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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.
  2. As detailed in my appeal decision, I have found that the proposed development is reasonably necessary for the purposes of agriculture. The applicant claims that the Council acted unreasonably in its determination of the application and its subsequent handling of the appeal. He asserts that he supplied adequate information that should have resulted in permission being granted, in accordance with the terms of the development plan and the National Planning Policy Framework. Furthermore, the Council should have taken expert advice on the matter before making a decision.
  3. Authorities are expected to produce evidence to substantiate reasons for refusal with reference to the development plan and all other materials considerations, showing clearly why the development cannot be permitted (paragraphs A22 and B16 of the Annex to the Circular).
  4. The Council states that there was insufficient information provided in the Design and Access Statement that accompanied the application to justify the siting of the containers. Furthermore, the response to a request for further information did not provide this justification and it was impossible to assess whether the containers were reasonably necessary for agriculture.
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5. In the light of this, it requested that the appellant provided further information to justify the siting of the containers. I understand the Council's point that some of these submissions, for instance the reference to RSPCA welfare standards without providing details of numbers of the animals referred to, did not provide clear justification. However, overall, I found that the submissions provided adequate justification for the containers, and setting out why the general purpose building, previously approved by the Council, could not meet the needs of the applicant.
6. Whilst I found this to be the case, on balance, and my decision differed from that of the Council, it does not follow that the Council acted unreasonably in reaching its decision.
7. The applicant makes the point that the Council should have consulted its "agricultural expert". However, the Council has stated that it has no such position in the Council. It goes on to say that had information relevant to economic development been submitted it would have consulted its Economic Development Department on the application. There is no statutory requirement for this consultation to be carried out, and there is no convincing evidence before me to show that seeking those comments, with the information available to the Council, would have led to a different decision. Therefore, I do not consider that the Council's action in this regard was unreasonable.
8. Paragraph B16 of the Circular advises that the Council's decision notice should be carefully framed, setting out in full the reasons for refusal and that this should be 'precise, specific and relevant to the application'. I found this to be the case here. Furthermore, the Council was able to clearly articulate their concerns regarding the development in its appeal submissions.
9. Finally, the claimant makes reference to paragraph B12 of the Circular in support of his case. However, this relates to unreasonable behaviour by Councils in enforcement cases and is not relevant here.
10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

*R Curnow*

INSPECTOR