



The Planning Inspectorate

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Your Ref:

Our Ref: APP/Y3940/W/22/3292632

Wiltshire Council
Planning Appeals
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

15 November 2022

Dear Sir/Madam,

Town and Country Planning Act 1990

Appeal by Mr Michael Kerslake

Site Address: 38 Stone Lane, Lydiard Millicent, SWINDON, SN5 3LD

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

<http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/>

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Nadia Hussain

Nadia Hussain

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>



Appeal Decision

Site visit made on 4 July 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/Y3940/W/22/3292632

38 Stone Lane, Lydiard Millicent, SN5 3LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Kerslake against the decision of Wiltshire Council.
 - The application Ref PL/2021/04439, dated 28 April 2021, was refused by notice dated 3 February 2022.
 - The development proposed is the change of use of section of agricultural land to residential.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Michael Kerslake against Wiltshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The change of use has been completed and the appeal is therefore being assessed retrospectively.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal relates to land located to the rear of an existing detached residential property. The land formed part of a paddock of agricultural land in the same ownership as 38 Stone Street and is located to its north. The appeal seeks to regularise the change the use of a triangular section of land measuring approximately 87 square metres. The redefined garden area would be enclosed by a post and rail fence.
6. The land comprising the appeal site is located outside any defined settlement and as such it located in the open countryside. The rear gardens along Stone Street follow a defined diagonal line. The Council's submission details that this diagonal line formed the historic boundary between the Parishes of Lydiard Millicent and Purton.
7. It was clear at the time of my site inspection that, by reason of the topography of the area and the presence of existing features and structures, the change of

use of land would represent and awkward encroachment into the countryside, creating an irregular boundary which is more angular than the original. Whilst no structures are proposed it would introduce domestication beyond the current defined garden boundaries along Stone Lane which would be harmful to the character and appearance of the area. There would be views of the proposal from properties along Stone Lane and the gardens of properties on Washpool. Whilst these may be limited in terms of public and wider views, I still find there is a harmful impact on the appearance of the area and visual amenity of the countryside.

8. Consequently, I find the development would be in conflict with the relevant elements of Policies CP51 and CP57 of the Wiltshire Council Core Strategy (2015) (CS) which seek, amongst other things, to ensure that developments respect the separate identity of settlements and the transition between man-made and natural landscapes and the urban fringe and relate positively to their landscape settings and the existing pattern of development. The development would also be at odds with paragraph 130 of the Framework which seeks to ensure developments are visually attractive and sympathetic to local character.

Conclusion

9. For the above reasons given above, having considered the development plan as a whole, the approach of the Framework and all other relevant consideration, the appeal should be dismissed.

Tamsin Law

INSPECTOR



Costs Decision

Site Visit made on 4 July 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/Y3940/W/22/3292632

38 Stone Lane, Lydiard Millicent, SN5 3LD

- The appeal is made under section 78 of 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 Michael Kerslake for a full award of costs against the Wiltshire Council.
 - The appeal was against the refusal of the Council to grant planning permission the change of use of section of agricultural land to residential.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states that irrespective of the outcome of an 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 associated appeal process.
3. The same guidance makes it clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Failing to produce evidence to substantiate a reason for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, or refusing permission on a planning ground capable of being conditioned. The submission also claims that the proposal complied with the development plan and should have been permitted and the necessary appeal has caused the appellant delay and unnecessary expense.
4. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the Committee Minutes which adequately sets out how the proposal, in the Council's opinion, would conflict with relevant adopted planning policies. Accordingly, I am satisfied that the Council's reasoning was credible and it was entitled to reach the decision it did.
5. I find nothing to suggest that a decision was reached other than on the basis of the merits of the proposal, as submitted by the applicant. I also find no evidence that the appellant incurred any additional expense as a result of this.
6. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided. I have

found that the Council had reasonable concerns about the impact of the proposal which justified its decision.

Conclusion

7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR