



# The Planning Inspectorate

## Costs & Decisions Team

3B Eagle  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Direct Line: 0303 444 5601  
Customer Services: 0303 444 5000

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Gillian McDermott  
Principal Planning Officer  
Wychavon District Council  
Civic Centre  
Queen Elizabeth Drive  
Persnore  
WR10 1PT

Your Ref: W/23/01730/FUL

Our Ref: APP/H1840/W/24/3344260

Date: 12 March 2025

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## BY EMAIL ONLY

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Dear Ms McDermott

### Local Government Act 1972 - Section 250(5)

### Town and Country Planning Act 1990

### Appeal by Mr Sam Cope

**Site Address: Tee Tops, Cottons Lane, Aston Underhill, WR11 7SS**

## APPLICATION FOR COSTS

1. I am directed by the Secretary of State for Housing, Communities and Local Government to decide Wychavon District Council's ("the Council") application for an award of costs made on 22 November 2024 against Mr Sam Cope ("the appellant"). The appeal, made on 14 May 2024, is against the Council's decision of 30 November 2023 to refuse planning permission for two new self-build dwellings.

## DECISION

2. The application is refused.

## Basis for determining the costs application

3. Planning Practice Guidance (PPG) says that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Appellants are required to behave reasonably in relation to procedural matters on the appeal, for example by complying with the requirements and deadlines of the appeals process. Examples of unreasonable behaviour which may result in an award of costs include lack of co-operation on any planning obligation. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

## Reasons

4. During the appeal the Council sought a contribution towards affordable housing to accord

with policies of the South Worcestershire Development Plan Review. The appellant agreed to the contribution and said that a S106 unilateral undertaking ("UU") would be submitted during the appeal.

5. Reason 4 of the Council's refusal of planning permission said that without an obligation to secure an affordable housing contribution the proposal was contrary to Policy SWDP 15. The Inspectorate's appeal start letter made clear that if the appellant intended to submit a S106 obligation he should do so by 15 August 2024. The appellant said in his statement submitted with his appeal, and in his final comments of 12 August 2024, that he was willing to enter into a S106 obligation to secure an affordable housing contribution. The appellant only submitted a draft UU to the Council in late July 2024. The Council identified land ownership issues with the draft UU and asked the appellant to provide certain Land Registry documents confirming ownership - the Inspector gave the appellant until 24 September 2024 to resolve the ownership issues and provide him with a completed UU. The Council contends that although it spent much time liaising with the appellant, the land ownership issues was not resolved. A completed UU was not submitted by the Inspector's deadline.
6. The appellant maintains that he did all he could to provide the Council with the evidence it asked for, including pressing Land Registry to supply the necessary documents, and kept the Council fully informed of progress throughout the appeal. The appellant considers that he has not behaved unreasonably and an award of costs against him is not justified.
7. In the light of the reason for refusal number 4, the onus was on the appellant to prepare a draft obligation that addressed the affordable housing contribution issue and submit it to the Council at the time of the appeal. Had this been done there would have been more time to resolve any land ownership issues and therefore a better chance that the Inspector could have been provided with a completed UU by his 24 September 2024 deadline.
8. It is considered that by not providing a draft UU until more than two months into the appeal the appellant behaved unreasonably. However, an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Although the Council says that it has spent much time liaising with the appellant about the land ownership issue, it has not satisfactorily explained what unnecessary or wasted expense it incurred as a result of the appellant's behaviour. Therefore, although the appellant's behaviour was unreasonable, it has not been shown that such behaviour caused the Council to incur unnecessary or wasted costs in the appeal process. An award of costs against the appellant will not therefore be made.
9. A copy of this letter has been sent to the appellant.

Yours sincerely

*Richard Holland*

Authorised by the Secretary of State to sign in that behalf