
Costs Decision

Hearing held on 12 March 2025

Site visit made on 12 March 2025

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Costs application in relation to Appeal Ref: APP/P0119/W/24/3351774

Land at Lyde Green, Emersons Green, South Gloucestershire BS16 7NT

- 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 Norft Ltd for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
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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 applicant's costs application is submitted on the basis that the Council did not give consideration to whether conditions 2 and 11 could be amended rather than removed in their entirety. The applicant submits that had the Council given consideration to amendments to those conditions prior to the hearing, the appeal might have been avoided or its scope reduced. I note that the applicant's cover letter with their section 73 application made reference to their willingness to discuss alternative wording to the relevant conditions.
4. However, the applicant maintains that the most appropriate solution would be for conditions 2 and 11 to be removed. Therefore, even if the Council had given consideration to amended wording to those conditions prior to the appeal, it appears reasonably likely that an appeal seeking removal of the conditions would still have been made. As such, the Council's apparent lack of consideration of potential amendments to conditions 2 and 11 does not amount to unreasonable behaviour resulting in wasted expense at appeal.
5. With respect to the Council's response to the draft statement of common ground, I appreciate that it resulted in tight timescales for the appellant. Nonetheless, there is no substantive evidence to indicate that the Council deliberately delayed their response, nor that the challenging timeframes resulted in wasted expense or would have materially altered the grounds for discussion at the hearing.

6. The applicant also submits that the Council acted unreasonably in submitting their costs application at the end of the hearing. Whilst the PPG advises that costs applications should be made as soon as possible, it requires that such applications must be made before the hearing is closed. The Council's costs application fell within that timescale. That meant that the applicant was required to consider that application during an adjournment at the hearing and after the hearing had closed. Nevertheless, had the Council submitted the costs application sooner, the applicant would likely have spent a similar amount of time considering their application and making their response.
7. Therefore, unreasonable behaviour by the Council, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.

Rachel Hall

INSPECTOR