



Costs Decision

Site visit made on 19 March 2025

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2025

Costs application in relation to Appeal Ref: APP/C1435/W/24/3339914 Lynton, Five Ash Down, Uckfield, East Sussex TN22 3AH

- 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 & Mrs J Sturt for a full award of costs against Wealden District Council.
 - The appeal was against the refusal of reserved matters of appearance, landscaping, layout and scale pursuant to Condition 1 of an outline planning permission Ref WD/2021/2129/O, granted on 6 March 2023.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

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 appellant has submitted their claim on the basis that the Council has behaved unreasonably on both procedural and substantive grounds.

Procedural

4. The appellant considers the Council has introduced a new issue not featured on its Decision Notice relating to 'neighbour impact', which has necessitated a response from them.
5. The Council's letter dated 24 October 2024, setting out their response to the appellant's grounds of appeal, implied that the proposed landscaping scheme was unacceptable to the Council on account of the depth of the planted strip alongside the access. The Council clarified in their response to the costs claim dated 14 January 2025 that their suggestion of a condition reflected the discussions during the course of the planning application. However, to my mind it was not sufficiently clear from the Council's letter of 24 October 2024 that this was not a matter in dispute which required a response from the appellant.
6. I find on this matter therefore that due to the way the Council's case was set out, it was reasonable for the appellant to consider that a new issue had been raised that was not a reason for refusal. As such, the appellant has incurred additional costs in the appeal in responding to that issue.

Substantive

7. On substantive grounds, it is claimed the Council has prevented and delayed development which should clearly be permitted, failed to produce evidence to substantiate each reason for refusal, provided vague, generalised or inaccurate assertions about the proposal's impact, along with having persisted in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.
8. With respect to the parties' reference to the indicative plans submitted in connection with the application and subsequent appeal for the outline planning permission (appeal reference APP/C1435/W/21/3287775), these would have merely provided an indication of how a scheme to accommodate 3 dwellings could potentially be pursued. The indicative layout and scale was not a matter for determination by the Inspector, and there was no compulsion on the Inspector to provide a commentary on the merits of the indicative scheme.
9. With this in mind, I do not consider it was unreasonable of the Council, in considering the scheme's appearance and scale, to come to the conclusion it did. In respect of substantiating the reason for refusal, the Council's case comprised its officer report, and a letter setting out their case in response to the appellant's grounds of appeal. Both documents referred to the development plan and other material considerations. Although I did not share their conclusions, I am satisfied that the Council gave a reasoned assessment in relation to their decision.
10. I do not consider that the reserved matters of appearance, layout, scale and landscaping in this case fall within the category where development should clearly be permitted. Whilst I have come to a different conclusion to the Council on the planning merits, I find no clear evidence of unreasonable behaviour resulting in unnecessary expense being incurred by the appellant on this matter at appeal stage.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's case regarding the depth of the proposed landscaping strip adjacent to the access, and a partial award of costs is therefore warranted.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wealden District Council shall pay to Mr & Mrs J Sturt, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the depth of the proposed landscaping strip adjacent to the access; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Wealden District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L Francis INSPECTOR