



Costs Decision

Site visit made on 27 May 2025

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

Decision date: 6 June 2025

Costs application in relation to Appeal Ref: APP/C3810/W/24/3358077 Broadlees, Dappers Lane, Angmering BN16 4EN

- 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 Natta Building Co Ltd for a full award of costs against Arun District Council.
 - The appeal was against the refusal of the Council to approve reserved matters (appearance, landscape, layout and scale) pursuant to the outline consent Ref A/153/22/OUT for 20 No dwellings.
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Decision

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

Reasons

2. The national Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant states the following grounds for the application: a) the quantum of development proposed (up to 20 units) was agreed by the Council at outline stage and therefore, should not have been considered as part of the reserved matters application, and b) despite not having a 5-year housing land supply (HLS), the Council failed to have regard to the 'tilted balance' as set out in Paragraph 11d of the Framework.
4. In rebuttal, the Council contend that the description given in the outline application for 'up to 20 dwellings' was clear that the total number of dwellings for the proposed scheme could not be fixed until the reserved matters stage. In addition, even though Paragraph 11 (d) of the Framework was considered, 'the tilted balance' is not applicable to a reserved matters application.

a) Quantum of development
5. The outline permission was a proposal with all matters reserved other than access. As such, the submitted plans were indicative for appearance, landscape, layout and scale, and showed what may, not necessarily would be permitted by the Council until balanced with other considerations at the reserved matters stage. Therefore, I cannot agree that the Council has acted unreasonably in this respect.

b) Tilted balance

6. It is not a matter of dispute that the Council cannot demonstrate a 5 Year HLS. Nonetheless, the Council argued that as the proposed development relates to an application for reserved matters, that the 'tilted balance' is not engaged. However, mindful of the submitted judgement, I concur with the appellant that a reserved matters approval is an intrinsic part of a planning permission along with the outline consent, particularly when a scheme is one relevant to the provision of housing. Therefore, there can be no doubt that the 'tilted balanced' was engaged for the proposed residential scheme. Indeed, irrespective of the theoretical outcome of the Council's planning balance, either way it is more than likely that the need for an appeal could have been avoided. It follows then, in this respect, the Council has acted unreasonably by not applying the Framework correctly.

Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described by the national Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. 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 Arun District Council shall pay to Natta Building Co Ltd., the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Arun 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

J E Jolly

INSPECTOR