



Costs Decision

Inquiry held on 8-11, 14 July 2025

Site visit made on 10 July 2025

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Costs application in relation to Appeal Ref: APP/C3810/W/25/3361225

Windmill Inn and 34 Mill Lane, Rustington, Littlehampton BN16 3JN

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Churchill Living Ltd for a full award of costs against Arun District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for demolition of the existing public house and dwelling and redevelopment to form retirement living accommodation for older people comprising 28 retirement living apartments and 3 retirement living cottages including communal facilities, access, car parking and landscaping.
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Decision

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

The submissions for Churchill Living Ltd

2. The costs application was initially made in writing prior to the Inquiry. At the Inquiry itself a revised written application was then submitted.

The response by Arun District Council

3. The Council provided an initial written response to the applicant's first claim, and then a full written response to the applicant's revised claim at the Inquiry.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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.
5. The applicant asserts that the Council acted unreasonably by refusing planning permission on grounds which I summarise as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Failing that, the applicant indicates that a partial award should be made on the basis of any of the contributing points raised.
6. The applicant's initial claim pursued the argument that connection to the foul sewer was acceptable on the basis that discharge to a combined sewer sits at the bottom of the SuDS hierarchy. The 2 being obviously different types of sewer, this argument does not form part of the applicant's revised claim.

7. The applicant's revised claim again centres on the second reason for refusal of planning permission which relates to drainage. However, as set out in my main decision, planning permission was also refused on the basis of the scheme's failure to provide a contribution towards the off-site provision of affordable housing. This was overcome during the appeal by the applicant renewing an earlier agreement that the development could make a contribution. As such, whilst it was not a matter considered at the Inquiry, I cannot conclude that planning permission should have been granted. Within this context I can attach little weight to speculation over how matters may or may not have proceeded had an objection not been raised in relation to drainage.
8. To the extent that the applicant's claim provides a critical chronology of the Council's assessment of drainage, I have ultimately dismissed the appeal on much the same grounds as were pursued by the Council at appeal. This summary therefore lends nothing of substance to the applicant's claim.
9. The applicant's claim also in part rehearses arguments already dealt with within my main decision. These include the findings of the ground monitoring report which I have concluded do not support the applicant's position. Within this context, the additional assertion that no amount of on-site investigation to prove the unsuitability of the site for soakaways could ever overcome the objection to the FRA's drainage strategy is baseless.
10. The claim additionally implies that it was in some way unreasonable for the Council to consider the scheme's response to other rungs in the SuDS hierarchy at appeal. However, given that the SuDS hierarchy is descending, and the proposal fell outside, it was relevant for the Council to consider all rungs.
11. The claim heavily focuses on the Building Regulations and the Water Industry Act 1991, each of which operates outside the planning system. Again, my main decision deals with the Building Regulations insofar as they are relevant to policy interpretation, as too the question of 'reasonable practicability'. Neither weigh in favour of the applicant's claim.
12. Within the context of the appeal the Council however conceded the legal point that the undertaker cannot refuse a connection to the sewer network. This was questioned to the extent that the second reason for refusal noted that *no evidence [has] been provided they have permission of the owner of the sewer to discharge into it*. Importantly however, this concern did not originate with the Council but with the undertaker itself. The latter stated within various submissions both that an application would be required for a connection and that this would not be permitted. Notably, the applicant's own FRA also expressed the view that the undertaker's permission was required.
13. Whilst I appreciate that the applicant incurred some expense in pursuing this legal matter, it is one which ultimately falls to be resolved outside the planning process. The question over the legality of a connection did not otherwise alter the broader consideration of the planning merits and appropriateness of the proposal, in relation to which I again share the Council's view. This is notwithstanding incidental reference made to on-site flooding within the decision notice; a matter which was raised, and which simply fell away in connection with the above.

14. Insofar as the applicant further asserts that the Council's drainage witness made errors whilst under cross examination, even if this was the case, it is unclear how and why such alleged errors generated unnecessary or wasted expense.
15. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Conclusion

16. I conclude that an award of costs should not be made.

Benjamin Webb

INSPECTOR