

Costs Decision

Site visit made on 15 July 2025

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 28th July 2025

Costs application by Mr and Mrs Stephen and Tracey Jones in relation to appeal ref: APP/R1845/X/24/3342580 - Kinverdale Park, Kingsford Lane, Wolverley DY11 5SR

- The application was made under the Town and Country Planning Act 1990, Sections 174, 322 and Schedule 6, and the Local Government Act 1972 Section 250(5).
- The application was made by Mr and Mrs Stephen and Tracey Jones for an award of costs against Wyre Forest District Council.
- The appeal was made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against the refusal of Wyre Forest District Council grant a certificate of lawful use or development, (LDC).

Decision: The application for an award of costs is not allowed.

Application - submissions made by Mr and Mrs Stephen and Tracey Jones

1. The Local Planning Authority had ignored established case law, as set out in Planning Appeal Decision refs: APP/F1230/X/18/3206065, APP/P1235/X/18/3206069. That had almost identical facts to the present case. Applying established case law should have resulted in the issue of a certificate of lawful proposed use.
2. The Council had not engaged with or responded to the legal arguments set out in the Appellants' application or appeal submissions. They had not submitted a statement of case, simply having relied upon a copy of the refusal notice without further explanation.
3. The Appellants claimed the full costs of making their appeal.

Submissions made by Wyre Forest District Council

4. The Council had not acted unreasonably or caused unnecessary expense as described in the Planning Practice Guidance paras 030 and 049 and para 38 of the National Planning Policy Framework.
5. The decision to refuse the proposal was because the site was allocated for recreational use under planning permissions KR205/72 and 20/0733/CLP. It was not for siting residential homes.

Inspector's conclusions

6. Irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party or parties applying for costs to incur unnecessary or wasted expense in the appeal process. Parties in planning appeals normally meet their own expenses. Costs do not, as a rule, follow the result. However, where a party has – (1) behaved unreasonably and – (2) this has directly caused another party to incur unnecessary or wasted expense, they may be subject to an award of costs. The power to award costs is limited to those necessarily and reasonably incurred in the appeal process. Expense incurred at application stage, or any indirect expenses, cannot be recovered by an award of costs in any event.
-

7. Costs applications may relate to events before the appeal or other proceedings were brought, but costs unrelated to the appeal or other proceedings are ineligible. Where an applicant has a complaint against a local planning authority's handling of an application under the planning acts, they have the remedy of exercising their statutory right of appeal against a refusal or failure to determine, and can apply for an award of costs as part of the appeal statutory process.
8. In the present instance, the Council stuck to their conclusion that planning permission KR205/72 permitted use of the application land only as a recreation area in connection with the adjacent caravan park. They said it did not grant planning permission for use of the land for the stationing of caravans or park homes. The essence of the Appellants' subsequent lengthy costs application and complaint seems to me to mainly arise from their frustrations following their failure to persuade the Council to discuss or change their refusal to issue an LDC. For example, the Council were criticised for not engaging with or responding to legal arguments. The Council had not submitted a statement of case, relying entirely on their refusal notice.
9. The Appellants were aware that in an LDC appeal, the onus is on the appellant to make out their case to the standard of the balance of probabilities. The burden lies with them. The procedural guide to certificate of lawful use or development appeals at 2.1.1. says that while the Local Planning Authority should always co-operate with an LDC applicant asking for information about the planning status of the land by making records readily available, they need not go to great lengths to show that the subject of the application is or is not lawful. It seems to me that the Council did just that, albeit perhaps the bare minimum in terms of discussing or elaborating on their decision to refuse to issue an LDC.
10. I consider it moot as to whether the Council should have explained why they were unpersuaded by the APP/F1230/X/18/3206065, APP/P1235/X/18/3206069 decision. I would not have expected a consequential change of decision, however, or there having been the possibility of avoiding an appeal. Nor would it have resulted in more work being needed to meet the burden upon the Appellants to make their case.
11. Unreasonable behaviour during the application process can be taken into account, but that might only have applied here had the Council's reason for their refusal to issue a certificate of lawfulness been irrelevant or woefully inapt. That their opinion on the status of the application land was not, in my view, persuasive merely goes to the merits of the disagreement between the parties on the lawfulness of the use of the land.
12. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, was not demonstrated. An award of costs against Wyre Forest District Council is not justified.

COSTS ORDER

13. No order as to costs is made.

John Whalley

INSPECTOR