



Costs Decision

Site visit made on 24 July 2025

by **A Owen MA BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 AUGUST 2025

Costs application in relation to Appeal Ref: APP/E2205/W/25/3358873

Land to the south of Plain Road and east of Calland, Smeeth TN25 6QN

- 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 Quinn Homes for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of up to 9 custom-built dwellings.
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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. It adds that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matters under appeal, for example, by making inaccurate assertions about a proposal's impact, refusing permission on grounds capable of being dealt with by conditions, by failing to produce evidence to substantiate reasons for refusal, or by preventing development which should clearly be permitted having regard to its accordance with the development plan.
4. With respect to the first reason for refusal, the applicant suggests the Council has inaccurately asserted the harm the proposal would cause, primarily in terms of its density and visual impact. Whilst, in my appeal decision, I consider the density would not be inappropriate and that there would be only a very limited visual effect, it is not considered that it was unreasonable for the Council to believe there would be harm, given the low density and irregular pattern of some nearby development and the public footpaths to the south of the appeal site.
5. The second reason for refusal relates to the feasibility of providing an access. It is clear that to provide an access of an appropriate width for vehicles, the existing access would need to be widened and that this land is within third party ownership. However this land is within the appeal site and the applicant has demonstrated they have a right of access over it. Nonetheless, even with some widening, the access would fail to be wide enough to provide safe vehicular and pedestrian access. It was therefore not unreasonable for the Council to have concerns in this regard.

6. In the third reason for refusal the Council considered the proposal would result in a significant increase in traffic. The applicant advises that there would be only five vehicle movements during the peak hours. The Council do not dispute this figure and, taken individually, it is not a significant number. However, in the context of the negligible volume of traffic that the access currently accommodates, it would be a significant increase. This reason for refusal was therefore reasonable.
7. In respect of the fourth reason for refusal, I concur with the Council that the relevant policy does require affordable housing on schemes of less than 10 units if the site area exceeds 0.5ha for the reasons given in my decision on the appeal. It was reasonable for the Council to refuse permission on this ground.
8. For the fifth reason for refusal, although the Senior Biodiversity Officer had commented that it is likely that an acceptable reptile receptor site could be achievable, they remained to have a number of concerns which had not been resolved at the time of the Council's decision.
9. The final reason for refusal raised concerns that the development would fail to achieve nutrient neutrality and hence harm a European Site. Although a completed unilateral undertaking has now been provided, it was not unreasonable for the Council to have concerns at the application stage given the mitigation strategy included improving infrastructure on land elsewhere which had not been secured by a completed legal agreement at that time. Consequently, it was reasonable for the Council to consider that paragraph 11 d) i) of the National Planning Policy Framework was engaged and the presumption in favour of sustainable development did not apply.
10. Overall, it has not been demonstrated that the Council behaved unreasonably resulting in unnecessary or wasted expense on behalf of the applicant, as described in the PPG. Therefore, the application for an award of costs is refused.

A Owen

INSPECTOR