



Costs Decision

Site visit made on 16 July 2025

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2025

Costs application in relation to Appeal Ref: APP/J1860/W/25/3360959 Land adjacent to 15a Collett's Green Road, Powick, Worcestershire WR2 4SB

- 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 Philip Deeley, of Matthews Construction for a full award of costs against Malvern Hills District Council.
 - The appeal was against the refusal of permission in principle for the construction of up to 4 no. 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. Amongst other things, the PPG sets out that a local planning authority is at risk of an award of costs for acting contrary to, or not following, well-established case law; persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant has set out that the Council were manifestly inaccurate to conclude that the appeal site would be served by inadequate local bus services, especially in the context of a recent appeal decision¹ within the same Parish. As such, the appellant alleges that the Council has failed to determine similar cases in a consistent manner. The appellant also suggests that the Council had no right to consider layout and design, at the permission in principle stage.
5. In response, the Council suggest that the appeal proposal was assessed in relation to location, land use and amount of development, and this assessment was based on the facts of the proposal and the site and its surroundings. The Council also highlight that the appellant has interpreted the suitability of the level of bus services and their frequency in a different way to the Council. They also identify that additional services have been added to the relevant bus timetable since the planning application was determined, which is a change in circumstances. The Council also identify that the existence of an appeal decision relating to a site

¹ Appeal Ref: APP/J1860/W/23/3320958

approximately 4.3km away does not bind the Council's decision-making, and that applications should not automatically be determined in the same way as other applications determined between two and half, and three years ago.

6. While the scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted, these specific matters can extend to the effect of a scheme on the character and appearance of the area. As such, although the Council make some broad assumptions regarding the layout and design of a possible scheme, given the size and context of the appeal site, I do not consider that the Council's assumptions were unreasonable. Indeed, I have agreed with the Council in this respect. On that basis, I consider that the Council has not behaved unreasonably in its assessment.
7. It is clear from the Council's delegated officer report (officer report) that it did not consider that the bus services nearby would be a suitable sustainable travel option for future occupiers of the houses on the land. Mainly due to the limitations of the service. Indeed, the officer report is robust in this respect and amongst other things sets out the frequency and limitations of the services on offer locally. The officer report also refers to and makes comments on the numerous appeal decisions referred to by the appellant.
8. Although the Council's Statement of Case acknowledges that the bus service has been enhanced since the appeal was submitted, they fail to provide further evidence to substantiate why they consider the bus service is still inadequate following the changes. At the very least the Council had an opportunity to defend its position, but they made no further comment on the matter. The lack of comments on the change in circumstances left the appellant with no alternative but to address the matter within their final comments for the appeal. Even so, many of the observations had already been set out previously. I am also mindful that the appellant would have provided a robust set of final comments either way, and I am not satisfied that the lack of comments from the Council, on the enhanced bus service, has resulted in wasted expense. On that basis, I consider that the Council has not behaved unreasonably.
9. Overall, for the above reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

N Bromley

INSPECTOR