



Costs Decision

Site visit made on 7 August 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Costs application in relation to Appeal Ref: APP/C3810/W/25/3360826

Little Paddocks, Sefter Road, Pagham, West Sussex, PO21 3EE

- 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 and Mrs Brunton for a full award of costs against Arun District Council.
 - The appeal was against the refusal of planning permission for 'demolition of existing buildings and erection of 7 no. dwellings with associated landscaping and works'.
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Decision

1. The application for 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. The applicant considers that the Council behaved unreasonably in a number of ways during the validation and determination of the planning application.
3. The appellant asserts that the proposal was one which should clearly have been permitted. In respect of the first reason for refusal, given the site lies in an area of change and between areas of varying character and density, the acceptability of the scheme was a matter of judgement. The Council's Officer Report shows the Council had due regard for both local and national policy in reaching its decision, and it adequately substantiated its case during the appeal, highlighting important differences between the appeal scheme and the surrounding developments. While the proposal may have adhered to other parts of the Design Guide, this did not necessarily dictate that the density should be accepted. While my decision finds that the proposal accords with the development plan, I do not consider this to be a scheme which should have clearly been permitted. Given the references to relevant policies and site specific circumstances, neither do I consider the Council used vague or generalised assertions in its assessment.
4. The Council have not acknowledged all potentially applicable sections of the Framework, however, I am satisfied that it had due regard for the Framework as a whole as a material consideration. The Council's Officer Report demonstrates the Council carried out the balancing exercise required by the Framework and, while the applicant disagrees with those conclusions, the Council did not behave unreasonably in this respect.
5. The applicant considers the second reason for refusal, relating to surface water drainage, was capable of being dealt with by conditions. However, I do not

consider this was necessarily the case here since problems were identified with the calculations on which the success of the proposed drainage measures relied. The PPG is clear that the layout and function of drainage systems needs to be considered at the start of the design process. While a model condition may exist and surface water conditions can be an acceptable approach in some cases, this is not necessarily the case for all development and it is for the decision maker to decide whether such conditions would meet the relevant tests. The Council's case here demonstrates that it considered the imposition of conditions to address the matter, but was not satisfied that this was appropriate. Overall, in respect of the second reason for refusal, it was not necessarily capable of being dealt with by conditions. Nor do I consider that the onus was on the Council to demonstrate if the site layout would need to change, since this would depend on the applicant's calculations, which were in dispute here.

6. It is not for me to comment on whether the submission of a legal agreement is a reasonable local validation requirement, and that is a matter for the Council. However, it is clear from the evidence that the Council communicate the need for a legal agreement for effects on Pagham Harbour via its local validation checklist. That checklist includes references to the relevant development plan policies and associated guidance which set out the reasons why a legal agreement is necessary for certain development types. Those documents are publicly available for applicants to view before submitting an application and it is not clear therefore why the Council's attempt to secure a legal agreement early in the process would amount to unreasonable behaviour. The applicant acknowledges the need for legal input on the matter and the correspondence shows they were aware of the need for the document at an early stage, from the outset.
7. There is dispute as to whether an agreement submitted on 9 September was received by Officers and conjecture as to why this may have occurred. However, with an unsigned agreement being received on 26 September, this was unlikely to allow time for the Council's consideration and signing prior to the determination date. The applicant had been advised at the time of validation that the determination would not be delayed for this purpose.
8. Importantly however, it is not apparent that the timely conclusion of the legal agreement would have avoided the need for the appeal altogether, given the Council's other concerns. Given a legal agreement would have been required for the purposes of the appeal in any event, it has not been proven that the Council's actions in respect of the agreement caused unnecessary or unreasonable expense in the appeal process.
9. Overall, the appellant reports a generally unhelpful approach from the Council, which it considers prevented a favourable outcome on the application. In response the Council has evidenced the contents of its website which communicates how applications will be determined and sets out circumstances where additional information would be accepted. The evidence also suggests this was reiterated in emails from the Council around the time of validation. From the information before me, the Council adhered to the principles it sets out, and as such I cannot agree that it behaved unreasonably.
10. Even if amendments or additional information had been submitted in attempt to address the Council's concerns, it is not apparent that this would have made the scheme acceptable, particularly as those concerns included the quantum of

development proposed on the site. Therefore it is unlikely that amendments would have resulted in the need for the appeal being avoided altogether.

11. For the reasons given in combination, unreasonable behaviour which caused unnecessary or wasted expense in the appeal process has not been demonstrated. The application for costs is refused.

C Shearing

INSPECTOR