
Costs Decision

Site visit made on 5 August 2025

by **Laura Cuthbert BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Costs application in relation to Appeal Ref: APP/H1705/W/24/3357883

Land adjacent to Gibbys Farm, Church Road, Browninghill Green, Baughurst

- 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 Roger and Paula Richards and Mr Tim Richards for a full award of costs against Basingstoke and Deane Borough Council.
 - The appeal was against the refusal of planning permission for erection of two detached dwellings with new vehicular access and associated parking.
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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. As I have set out further in my decision, various court cases have considered the concept of a fallback development as a material consideration¹. The applicant considers that the Council has been unreasonable 'as it did not consider the valid fallback position and failed to take into account what it has described for a more recent application as a significant material consideration'.
4. Neither the Council's planning officer's report nor the Council's response to the costs application explicitly considered the concept of the fallback position as a material consideration. However, the Council's Statement of Case acknowledged and considered the fallback position, albeit briefly. The Council has applied its planning judgment and justified a different conclusion based on 'the design changes, the biodiversity impacts and in light of the revisions made to the NPPF and recent appeal decisions on sustainability, the Council would now attract significant weight against the proposal on this matter'. Whilst I agree that a greater consideration of the fallback position could have been applied, the Council was entitled to reach the conclusion that they did, given the concerns they had. Therefore, I find no unreasonable behaviour was exhibited by the Council in this respect.
5. My attention has also been drawn to another decision of the Council where a fallback position was given significant weight². Therefore, the applicant alleges that

¹ Schneck v SSHCLG & West Berkshire DC [2022] EWHC 3335 (Admin), R (SPVRG Ltd) v Pembrokeshire CC [2022] EWHC 143 (Admin), Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314 and Gambone v SSCLG

² Application Ref 24/00741/FUL.

they have not determined the case in a similar consistent manner. However, the weight to be afforded to a 'fallback position' is a matter of planning judgement for the decision maker. I consider that it was reasonable for the Council to come to a different conclusion on the weight to be given to the fallback in this earlier case as I note from the officer report provided that the Council in these circumstances found that 'the current scheme is not materially different from the previously permitted scheme with respect to size and scale'. This is a notable difference to that of the Council's conclusion on the proposal before me now. Therefore, these applications are not directly comparable. I do not consider that the Council has not determined similar cases in a consistent manner, and they have not behaved unreasonably in this regard.

6. In relation to refusal reason no 5, whilst I have ultimately concluded that a suitably worded condition would in these particular circumstances prevent any adverse impact on protected species, notably Great Crested Newts (GCN's), it was not unreasonable for the Council to refuse the application on the basis of the age of the survey data.
7. I acknowledge the concerns raised in regard to the District Level Licensing (DLL) scheme for GCN's, which is an alternative approach to traditional mitigation licences to develop sites which could affect GCN's. As the Council determined that they had insufficient information to determine the impact on GCN's, it was not unreasonable for them to consider the DLL in these circumstances, even if I have determined that a condition would be sufficient.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Laura Cuthbert

INSPECTOR