
Costs Decision

Site visit made on 28 August 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 September 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/25/3362792 Land to the rear of Porton Hotel, Winterslow Road, Porton SP4 0JU

- 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 K Hartland on behalf of TORH Pension Scheme for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the construction of three dwellings with associated access, parking and landscaping.
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Decision

1. The application for a full 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. Unreasonable behaviour on the part of a local planning authority may include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, failure to produce evidence to substantiate each reason for refusal on appeal, vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and not determining similar cases in a consistent manner.
4. The applicant contends, despite the officer's recommendation that planning permission be granted for the proposal, Members made a decision contrary to this, without adequate reason to do so. However, the Members in this case were entitled not to accept the professional advice of officers so long as a case could be made for the contrary view.
5. The Council's first refusal reason relates to concern that the proposal would not meet objectives of the Idmiston Parish Council Neighbourhood Plan (NP) to provide housing to meet local demand for downsizing, and affordable homes for young families. While these are highlighted as important considerations, they do not represent an objectively identified local housing need for the area. Moreover, there is no clear analysis or policy requirement in the NP for dwellings of a particular size having regard to an evidence base. The Council has therefore failed to produce any clear reason or detailed evidence to demonstrate that the proposed dwellings would not be appropriate in terms of local need by virtue of their size.

6. The applicant suggests that the Members contention that the proposed 3 and 4 bed dwellings would not meet local housing needs is inconsistent with 2 other decisions for similar proposals made by Members at the same planning committee meeting. The Council has not provided any clear reasons as to why the Members reached a different decision in relation to the appeal proposal to the other applications for similar developments. However, aside from the committee minutes and site plans, I do not have full details of the schemes referred to so as to be certain that the circumstances were directly comparable to the appeal scheme. Consequently, I am unable to determine whether unreasonable behaviour on behalf of the Council, in terms of failing to determine similar cases in a consistent manner, has taken place.
7. With regard to the second refusal reason, while I note the Highway Authority raised no objection to the proposal on highway safety grounds, it was evident from its response that it considered the arrangements to be less than satisfactory. It will be seen from my decision that I have reached a different view to the Members. Nonetheless, the operation of the parking and turning facilities in reality, together with the likelihood of future occupiers reversing in and out of plot 3 is a matter of judgement. Likewise, whether the gardens were of an appropriate size to meet the needs of future occupiers is also a matter of planning judgement, whereby Members are entitled to reach a different view to officers. As such, there is therefore no unreasonable behaviour on these points.
8. The applicant alleges that the Council's decision to refuse planning permission shows disregard for the provisions of paragraph 11 of the National Planning Policy Framework (the Framework). The committee report sets out the Council's shortfall in housing land supply, and is clear that in this scenario, paragraph 11 of the Framework sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In addition, the minutes of the planning committee meeting indicate that Members were advised that, given the Council's housing land supply position, significant weight should be given to the consideration of development when there were good reasons to do so and that a tilted balance would tip in favour of allowing housing development within settlement boundaries. The minutes also set out that there was a debate whereby the implications of the lack of a housing land supply upon the consideration of planning applications were discussed. I am therefore satisfied that Members had due regard to the provisions of paragraph 11 of the Framework in their decision making.

Conclusion

9. While I have found that the Council acted unreasonably in relation to the first reason for refusal, for the reasons set out above I cannot be certain that the Council did not determine similar cases in a consistent manner. Furthermore, the application was refused for other reasons relating to the impact of the development, and consequently, the appeal could not have been avoided altogether. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

E Worley

INSPECTOR