



Costs Decision

Site visit made on 24 June 2025

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Costs application in relation to Appeal Ref: APP/L1765/W/25/3361757

Land to northeast of The Farmers Home, Heathen Street, Durley, Southampton SO32 2BT

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 S Hussey, Oakdene UK Developments Ltd for a full award of costs against Winchester City Council.

The appeal was against the refusal of planning permission for development.

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. Many of the points in the applicant's costs rebuttal relate to the planning merits of the proposal, which have already been addressed in my appeal decision and do not require further consideration here.
4. The applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for the reasons considered below, which are largely based on substantive grounds.
5. Following pre-application discussions, amendments and a formal submission, the applicant's planning application was recommended for approval by the LPA, subject to conditions. Nevertheless, the Council's Planning Committee resolved to refuse the application contrary to the officers' recommendation based on 3 reasons.
6. Planning Committee went against the advice of its professional officers. Planning Committees are not bound by a professional recommendation and are entitled to depart from this based on the facts of the case and planning judgment. However, this is not an unqualified right, as members of a planning committee must be able to properly substantiate any concerns identified.
7. In summary, the LPAs first reason for refusal (RfR 1) alleges that the proposal would harm the character and appearance of the area and would be contrary to Policy MTRA4 of the Winchester Local Plan Part One (2013), which supports low-key tourist accommodation appropriate to its site and setting.

8. In my view, the matters which require consideration under the above Policy are mainly subjective and require planning judgements. These are largely for the decision maker, which in this case was the Council's Planning Committee. Indeed, the minutes of the meeting of the Planning Committee indicate that the Members felt the proposal failed to demonstrate sufficient compatibility with Policy MTRA4. Furthermore, the delegation of reasons for refusal to officers is a common procedural practice where committee members have indicated opposition but have not formulated specific wording.
9. Moreover, and whilst the applicant may disagree, the Council's RfR 1 is clear and includes reference to the relevant development plan policy. Furthermore, the LPAs assertions regarding compatibility with Policy MTRA4 are supported by sufficient analysis as set out in its appeal submissions.
10. In respect of RfR 2, this asserts that the proposal fails to demonstrate that it would deliver a net gain in biodiversity. I note that the application was supported by a Biodiversity Net Gain Matrix. Notwithstanding this, the LPA advised that the information submitted at the application stage was considered to be insufficient for the Planning Committee. However, I have not been referred to any detailed reasons for this.
11. Although the Council did not formally withdraw RfR 2, it asserts that the information provided by the applicant subsequent to the determination of the application has been confirmed as acceptable by the Council's Ecologist. Even so, it is unclear what information this is. Also, given that there is no evidence of an outright objection from the Council's Ecologist and any further information could have been secured by planning conditions, the inclusion of RfR 2 appears unnecessary and in my view amounts to unreasonable behaviour.
12. The third reason for refusal alleges that the proposal fails to secure appropriate mitigation in regard to increased nitrates into the Solent, a complex of European and Internationally protected sites. In determining the application, the LPA undertook an Appropriate Assessment and concluded that in the absence of avoidance and mitigation measures, the proposal would have a likely significant effect on the Solent. It also found that the proposal coupled with a mitigation package secured by way of a Grampian condition would result in a nitrate neutral development. On this basis, the LPA concluded that there would be no adverse effect on the integrity of the Solent. Given that the application was refused, it would not have been possible to secure the required mitigation and therefore this is a valid reason for refusal.
13. A Unilateral Undertaking was submitted with the appeal to secure the required mitigation measures, which includes mitigation reserved from the 'Meon Springs' nutrient mitigation scheme. Based on my appeal Decision, it appears that the LPA are incorrect in asserting that this mitigation cannot be used for the proposal. However, at this point, this is largely a matter for me in determining the applicant's appeal. Furthermore, the UU was submitted voluntarily, and any associated cost was at the applicant's discretion.
14. The reference to a previously refused scheme, although factually inaccurate, appears to be a clerical error rather than a deliberate attempt to mislead. Such errors, while regrettable, do not automatically amount to unreasonable behaviour unless they materially affect the outcome or result in procedural disadvantage.

15. Therefore, and while I have noted the several concerns regarding the LPAs handling of the application and appeal, these matters do not, in themselves, constitute unreasonable behaviour under the terms of the PPG on costs.
16. Nevertheless, as set out above there has been some unreasonable behaviour on the part of the LPA. However, to make an award of costs, I need to be satisfied that this matter resulted in unnecessary or wasted expense in the appeal process.
17. In this case the LPAs reasons for refusal relate to other matters. Therefore, while I cannot be certain, it seems likely that even if the LPA had incorporated RfR 2, this would not have altered the LPAs decision to refuse the planning application on the matter relating to character and appearance. Therefore, an appeal could not have been avoided.
18. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR