
Costs Decision

Site visit made on 3 September 2025

by **Stewart Glassar BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th September 2025

Costs application in relation to Appeal Ref: APP/T1410/W/25/3364491 Holy Rosary Convent, 34 The Goffs, Eastbourne, East Sussex BN21 1HD

- 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 A Green for a full award of costs against Eastbourne Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a 1-storey 8 bed residential unit associated with the wider HMO residential facility.
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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. In brief, the appellant seeks a full award of costs due to the manner in which the Council has managed the process generally and how it has handled certain issues in particular, which I address below. The Council did not respond to the application for costs.

Failure to Submit a Statement

4. The Council did submit an appeal statement but it was received after the specified deadline and so returned to them, unread by me. However, a Council is not obliged to submit an appeal statement and relying on the Officer Report (OR) is not in itself an unreasonable approach. In this case, it is clear from the OR where the Council's main concerns lay.
5. While the OR does not discuss in detail all the aspects of the scheme which are referred to in the first reason for refusal, the proposal as a whole does not follow the conventional pattern of development in the area; is a large flat-roofed single storey building of functional design positioned to the rear of two storey dwellings.
6. The OR set out such concerns and explained that the proposal was not generally considered to be acceptable for those reasons. I have not agreed with the Council's conclusion regarding this first reason for refusal, but the Council had reasonable planning concerns about the proposal which justified its decision.
7. I am also mindful that the applicant submitted amended drawings and a daylight/sunlight report with the appeal to address the second reason for refusal. I agreed that these amendments could be considered at the appeal but also that

they were necessary changes to make the development acceptable. This was not a weak reason for refusal.

8. The applicant suggests that such changes could have been requested by the Council as an amendment to the scheme. Whilst this is true, not requesting the change is not in itself unreasonable given the other reasons for refusal. It is also equally reasonable to have expected this aspect of the scheme to have been addressed initially as part of the submission.
9. That the agent felt the need to argue the Wheatcroft Principle was a result of the deficiencies of the scheme initially rather than the Council's actions. Furthermore, the Wheatcroft Principle is well understood by planning professionals generally and by Planning Inspectors in particular. That the applicant's agent chose to go into such detail was a choice open to them but the costs of the time should not be borne by the Council.
10. Indeed, more generally, had a statement been submitted it is difficult to see why this would have resulted in the applicant choosing not to respond in detail to the representations that were made at the appeal. That the applicant chose to respond to various issues, and in detail, was entirely their own decision.

Balancing Exercise

11. The conclusion in the OR is short but this does not in itself mean that it was inadequate. There is no reference to Paragraph 11 of the Framework or use of its wording and there is no direct reference to a 'balance' being undertaken. Nevertheless, the proposal's contribution towards delivering housing is acknowledged and given significant weight, which is not unreasonable in the circumstances.
12. The harms are then outlined, and the application is considered contrary to national and local planning policies. It is clear that the harms are considered to outweigh the benefits. It may have been helpful if it had been set out in the terms of the Framework but I am satisfied that a balance was undertaken. There is nothing to suggest that if it had been undertaken in more detail a different conclusion would have been reached.
13. There is nothing to indicate that the Council did not have regard to Paragraphs 11 and 232 of the Framework in terms of the weight attributable to development plan policies in the decision-making process.
14. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. However, the Framework does not change the statutory status of the development plan as the starting point for decision making. Therefore, the decision to rely on policies which pre-dated the Framework did not mean that the Council acted unreasonably.

Stacking-up Reasons for Refusal

15. Neither the initial submission nor the appeal documents provide details of the refuse/recycling, cycle or mobility scooter storage facilities. These are matters which could reasonably have been expected to have been provided as part of the application.

16. In situations like this, where a scheme is refused for one main reason, it is not uncommon for Council's to include other matters within separate reasons for refusal as a way of 'flagging up' an absence of information or detail. It does not mean that the matter cannot be addressed by condition. Sometimes, for a Council to do otherwise and not raise them within the reasons for refusal can risk an accusation of introducing new issues at the appeal stage.
17. In this instance, I see nothing unreasonable in the Council raising the matter in its reasons for refusal. I also note that it is not information which has been provided at appeal. Even if the appellant had provided the information at appeal, it would have been work which would have been required at some point. The work undertaken in raising the matter on behalf of the appellant is so minimal that it can be seen as being de minimis.

Ecologists Representations

18. The applicant suggests that the County Ecologist not having sight of the appeal documents meant a holding objection was submitted as opposed to a more favourable representation. It certainly appears from the information before me that the Ecologist was not provided with the correct information.
19. However, that does not mean that at the time the Council refused the application it had sufficient information in front of it to be confident that the scheme would meet biodiversity net gain requirements. It may have been a matter that would have been explored had the Council been amenable to the development as a whole but in the circumstances matters did not go in that direction. The onus was on the applicant to at least provide some indication to the Council that it could meet the standard condition. In that regard the fourth reason for refusal is understandable.
20. The applicant may have had to respond to some of the representations to clarify the position of the Ecologist's response and the BNG information. Having regard to the comments made in the representations, the response could have been quite succinct for the purposes of the appeal, advising that the Ecologist comments were not made on the basis of the new information and that the information in the applicant's opinion addressed the BNG issue. That the applicant's agent chose to submit a longer response, including in part, screenshots and quotes from other documents was their own decision.
21. Ultimately, the County Ecologist's holding response did not make a difference to my decision. The information that the applicant provided at appeal offered the necessary reassurance that the matter could be sufficiently addressed. Without it, I would have not been able to reach the decision that I did and would have needed to request such further detail from the applicant. Consequently, I am unable to find unreasonable behaviour or unnecessary or wasted expense in this regard.

Flooding

22. The application required a flood risk assessment (FRA) which was provided. The FRA was not fully assessed by the Council given its other concerns. There was not a flood risk reason for refusal and one was not advanced by the Council subsequent to its decision.
23. The Local Lead Flood Authority did not provide comments on the planning application and at appeal advised that they would only provide a response if the

Planning Officer deemed there to be significant flood risk arising from the proposal. No such response was offered by the Officer.

24. The applicant considers the matter to have been left hanging by the Council. The alternative would have been to delay the application for a reason which the Council did not consider would have altered the decision. In such circumstances it is difficult to see how the Council acted unreasonably.
25. Furthermore, flood risk was a matter raised in representations on the proposal from interested parties. On appeal, at least four representations refer to it, some of them in detail. While one refers to the Council's lack of comment on the issue, given the nature of the comments provided, there is nothing to suggest that had the Council made a clearer decision on flood risk these representations would not have been submitted. In all likelihood, the work responding to these points would have been work the applicant's agent would have chosen to undertake, regardless of the Council's position. As such, the work cannot be seen as having been wasted.

Suggested Conditions

26. The Council submitted conditions which initially had to be returned to them as they contained information that was not admissible. This was pointed out by the applicant's agent in a short email to PINS. Scrutinising and considering conditions is a necessary part of the appeal process. Consequently, an agent identifying conditions which are inappropriate or not required is something which can reasonably be expected during the course of an appeal.
27. As the initial conditions were returned to the Council I have not had sight of them. However, it is reasonable to assume that the offending conditions were removed and little further scrutiny was required from the agent. As such, the work undertaken cannot be seen as unnecessary and the work occasioned by having to flag up the offending conditions was a usual part of the appeal process.

Letters in support/objection

28. The letters in support of the application were largely from previous occupants and those with personal knowledge of the benefits the accommodation provided. They did not generally focus on the planning issues of the proposal.
29. It is regrettable if the OR did not correctly identify the number of supportive letters. The OR says there were 3, the Council has provided me with 11 letters of support. They are not dated so it is not possible for me to know exactly when they were received. However, there is nothing to suggest that the OR deliberately sought to mis-represent the number of letters received. Indeed, they were treated in exactly the same as the letters of objection insofar as being noted within the report but not directly referenced elsewhere. In that sense, the number of representations received (either for or against the proposal) did not appear to influence the eventual outcome.
30. The applicant's agent has gone to some lengths to point out the contradiction in the number of representations and the Council's approach to GDPR. To my mind, this could have been quickly and simply addressed as part of the appeal statement or in a short email. More importantly, even if all the letters of support were referenced, I see nothing in them which would have altered the approach adopted by the report's author or the eventual outcome. Thus, while there appears to have been some sort

of administrative error, I do not see this in itself amounting to unreasonable behaviour that resulted in an unnecessary appeal.

31. It is suggested generally that the Council did not fully consider all the documents at application stage. However, aside from mis-reporting the number of letters in support, I have not seen anything which would clearly indicate this to be the case and would have led to a different outcome.

Additional Letters of Representation

32. It may be the applicant's belief that the Council's reasons for refusal 'exacerbated and fuelled letters of representation' but there is no evidence of this being the case. There were a significant number of objections to the planning application initially and as I have not found the Council's reasons for refusal to be without merit, the applicant's claims do not stand up to scrutiny in this respect.

Framework Paragraph 130

33. Contrary to the applicant's suggestion, the only Framework paragraph referenced in the reasons for refusal is 180 (now 187), which is used in reference to the fourth reason for refusal on biodiversity net gain.
34. The OR references the Framework and a number of other Paragraphs, including 130. That paragraph has been omitted in the latest version of the Framework but did indicate that significant uplifts in average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. The applicant placed great weight on its omission from the revised Framework.
35. However, much of the applicant's case is predicated on the proposal being a gentle uplift in density, suggesting that the removal of Paragraph 130, which refers to a significant uplift in average density, would have limited implication for the proposal. I am also mindful that the Framework does not eschew the need for development to respond to local character, maintain an area's character or be sympathetic to local character.
36. I therefore do not find that the change to the Framework would have had the dramatic implications which the applicant ascribes to it. There is nothing before me which indicates that had the Council directly responded to this change in the Framework the situation would have radically altered, and an appeal avoided.

Conclusion

37. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Stewart Glassar

INSPECTOR