



Costs Decision

Site visit made on 14 July 2025

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Costs application A in relation to Appeal Ref: APP/C1760/W/24/3352671

Land at Spencer's Farm, Stockbridge Road, King's Somborne

- 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 Moonriver Ltd for a partial award of costs against Test Valley Borough Council.
- The appeal was against the refusal of planning permission for the erection of 14 dwellings and garages, access road, drainage and landscaping. (10 to be custom build houses and 4 to be first homes).

Costs application B in relation to Appeal Ref: APP/C1760/W/24/3352671

Land at Spencer's Farm, Stockbridge Road, King's Somborne

- 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 Test Valley Borough Council for a partial award of costs against Moonriver Ltd.
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Decision

1. Application A for an award of costs by the appellant is refused.
2. Application B for an award of costs by the Council is refused.

Preliminary Matters

3. 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. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met.
4. Unreasonable behaviour in the context of applications for an award of costs may either be procedural relating to the process or substantive relating to the issues arising from the merits of the appeal.

Application A

5. Paragraph 049 of the PPG sets out local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing a planning application.

6. In this regard the applicant contends that Test Valley Borough Council has acted unreasonably on two counts. Firstly, due to an incorrect understanding of the relationship between the Test Valley Borough Revised Local Plan (LP) and the Somborne Neighbourhood Development Plan (NDP) and secondly by misinterpreting NDP Policy KS/ALL1.
7. A neighbourhood plan attains the same legal status as a local plan once it has been approved at referendum and at this point it comes into force as part of the statutory development plan. With regard to the conflict between policies in the development plan any such conflict must be resolved in favour of the policy which is contained in the last document to become part of that development plan.
8. In this regard, there is a conflict between the LP and NDP and whilst this conflict must be resolved in favour of the NDP, as it was the last document to become part of the development plan, the scheme should still accord with the development plan.
9. It is evident from the Officer's report that the Council has had regard to the development plan as a whole including the relationship between the LP and the NDP. Based on the available information, including Counsel's opinion, and despite my findings in respect of this matter, I am not persuaded that the Council has incorrectly interpreted this conflict but rather that they have exercised reasonable planning judgement in coming to their decision in respect of the first reason for refusal. This has also been substantiated at appeal.
10. Whilst I concur with the applicant that NDP KS/ALL1 is conflicted and there is tension between delivering at least 14 dwellings and complying with some of the design criteria, it is down to the developer, as the one spearheading the scheme, to attempt to resolve this conflict or engage with the Council to produce an acceptable scheme. I cannot say that officers have misinterpreted this policy but again they have exercised planning judgement based upon the merits of the case.
11. I therefore find that the Council has not acted unreasonably resulting in unnecessary or wasted expense, as described in the PPG. For this reason, and having had regard to all other matters raised, an award of costs against the Council is not justified.

Application B

12. Paragraph 052 of the PPG sets out examples of unreasonable behaviour by appellants which includes introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
13. It is well established that the appeal process should not be used to evolve a scheme and in the interests of fairness it is important that what is considered at appeal is essentially the same scheme that was considered by the local planning authority and interested parties at application stage. That said, it is not out of the ordinary for appellants to submit additional information to narrow the matters in dispute which assists in a more efficient appeal process for all parties.
14. There is no doubt that fresh evidence was submitted and accepted under the appeal, however, I am not persuaded that it was substantial. For example, the additional tree survey and drainage report were produced in response to comments

from Council consultees. In addition, the nitrate budget calculation was updated to reflect changes to the calculator by Natural England.

15. Based on the circumstances it appears that the appellant was in discussion with the Parish Council in respect of producing a scheme that would receive their support. It is likely that had the Council continued dialogue with the appellant the outstanding matters that the additional information relate to would have been addressed as part of the application.
16. In this regard, it is evident that matters in respect of affordable housing and public open space could have been resolved through further engagement during the course of the planning application. Moreover, it is not unusual for main parties to agree planning obligations and enter into s106 agreements during the appeal process.
17. The fresh evidence submitted with the appeal was not substantial in my estimation and even if it was, the need for the evidence arose because of circumstances outside of the appellant's control, namely that the Council refused the planning application rather than continue engaging with the appellant and Parish Council. As such, they have not acted unreasonably in pursuing the appeal.
18. Whilst the Council contend that the submission of this information involved additional work and engagement with different departments including their legal team this is not substantiated by any evidence. In reality, engagement with such bodies is part and parcel of the appeal process and there is nothing to indicate that the Council were unduly inconvenienced or otherwise by the actions of the appellant.
19. I therefore find that the appellant has not acted unreasonably resulting in unnecessary or wasted expense, as described in the PPG. For this reason, and having had regard to all other matters raised, an award of costs against the appellant is not justified.

B Thandi

INSPECTOR