



Costs Decision

Site visit made on 30 September 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2025

Costs application in relation to Appeal Ref: APP/X1118/W/25/3370411 Land South of Boode Road, Braunton

- 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 Dave and Tim Aldrich-Smith and Heyland for a full award of costs against North Devon District Council.
 - The appeal was against the refusal to grant permission in principle for erection of up to two residential dwellings.
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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. Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. In respect of substantive matters, the PPG provides examples of unreasonable behaviour which may result in an award of costs. This includes preventing or delaying development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. The applicant's claim is based on these grounds.
4. The applicant says that the Council made incorrect assertions over the proposed tenure of the scheme, leading to irrelevant considerations in the decision-making process. In referencing an appeal at Oswestry¹, they claim that this matter should be addressed at the technical details stage. Be that as it may, despite the Council not seeking confirmation on tenure, there is no reason why the applicant could not have described the scheme as local needs or affordable housing in its application form.
5. However, the Council's review of the acceptability or otherwise of the location of the scheme necessarily referenced its spatial strategy and neighbourhood plan policies. These include support for local needs housing as well as site context and landscape considerations. In that context, there is little reason why the application

¹ APP/L3245/W/25/3358745

- could not have been described as local needs or affordable housing if this was desired. Nevertheless, even if described as such, the Council still did not consider the site to be suitable for housing. The focus of its case did not therefore turn on this matter and I do not find any unreasonable behaviour has taken place.
6. It is claimed that the Council misapplied paragraph 84 of the National Planning Policy Framework (the Framework), by omitting the word “isolated” from its officer report. I agree with the applicant that the word forms an important part of the policy. Having paid regard to *Braintree District Council v Secretary of State for Communities and Local Government & Ors* [2018] EWCA Civ 610, it is a matter of planning judgement based on fact and degree as to whether a site is physically separate or remote from a settlement. Even though the word “isolated” was not mentioned, the Council’s submissions refer to the site being located beyond a woodland corpse and the built-up area of Braunton. While I have ultimately found in favour of the applicant on this point, the Council was within its right to cite alleged conflict with this paragraph.
 7. In respect of visibility splays, the applicant says the Council overstepped the scope of what should be considered at the permission in principle stage. I have already dealt with this matter in the main decision. However, in summary, there is a distinction between the engineering of an access compared with how it may affect the character and appearance of an area. This was a matter in scope, and the Council did not behave unreasonably.
 8. The applicant considers generalised assertions were made about the proposal’s impact on the character and appearance of the area. They reference various appeal decisions² where inspectors have provided differing amounts of detail on such matters, including a proportionate review at the planning in principle stage, recognising that detailed visual and design impacts are reserved for the technical detail stage. While noted, the Council’s assessment was indeed proportionate to the application type. It included a balanced and detailed review of the landscape character area, the context of the site and its immediate and wider surroundings. The Council’s concerns were focussed on broad landscape impacts rather than detailed design matters.
 9. It is said that the Council did not apply appropriate weight to the development in respect of paragraph 11(d) of the Framework. Additionally, the applicant submits why they consider the benefits of the development would outweigh the landscape harm identified by the Council. As they point out, the allocation of weight is at the discretion of the decision maker. The Council acknowledged that the site is on the edge of a main centre which is considered to be a sustainable location for new development. There was also an acceptance of the implications of paragraph 11(d) and with this, that the scheme would make a minor contribution to addressing the housing shortfall. Therefore, I do not find that the Council failed to properly grapple with this issue and no unreasonable behaviour has been shown.
 10. Overall, there has been no unreasonable behaviour or wasted expense in the appeal, and a full award of costs is not warranted.

J Hills

INSPECTOR

² APP/X1118/W/21/3276698; APP/D3125/W/24/3351360; and APP/D0840/W/23/3320333