
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: 22 OCTOBER 2025

Costs application in relation to Appeal Ref: APP/P1425/W/25/3360979

Land to the east of The Orchards, Uckfield Road, Clayhill, Ringmer

(Easting: 544213 Northing: 113801)

- 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 Miss & Miss Carmella & Dolores Tebbutt for a full award of costs against Lewes District Council.
 - The appeal was against the refusal of planning permission for 8 custom build dwellings.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Preliminary Matter

2. The Council included substantive planning information in its initial costs rebuttal that necessitated a revised submission. This also meant that the applicants were given an opportunity to respond and submit a second final comments statement which included further final comments on the costs issue. It was agreed that these would all be taken into account in the final decision and this is what I have done.

Reasons

3. 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.
4. In brief, the applicants claim that the Council took over 3 years to determine the application which included failures to properly communicate/engage with the applicants during that time; took a contrary position to the facts/legislation/advice of other departments with regard to self build and custom build housing (SBCB) and concealed evidence about the issue; and misapplied the Framework.
5. In addition, it is suggested that the Council failed to properly consider all the material considerations, including similar cases, or defend their reasons for refusal. These are all collectively said to comprise both procedural and substantive failures and so on this basis a full award of costs is sought.
6. The Council has disputed that it acted unreasonably. The Council is silent on some aspects of the applicants' claim. An absence of comment does not necessarily mean the point is conceded but it does limit the information and evidence upon which I am able to base my decision.

Determination Period/Engagement

7. It took over 3 years for the Council to determine the application. During that time there were periods when the applicants were seemingly left in the dark for months on end. There were a number of different case officers involved, and the Council also allude to internal disagreements. However, none of the Council's reasons for the delays excuse the time taken to make the decision or reflects well on the Council, its management of the situation or the level of customer service provided. The significant amount of time the Council took to consider the application and make a decision is unjustified.
8. Such a poor or inconsistent approach to decision making, for whatever reasons, can erode trust and confidence in the planning service. However, this does not necessarily equate to unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process. I am mindful that the applicants had a right of appeal against non-determination and could have exercised that option when it was available. This does not excuse the delays by the Council, and understandably the applicants wished to avoid an appeal, but the applicants did have some agency over the matter.
9. It appears that some officers involved in the case were supportive of the proposal, but it is not clear whether this was reflected at more senior levels within the Council. Whilst this perhaps raises concerns as to internal procedures and management, there is nothing before me to indicate that had a decision been made earlier, or had there been better communication with the applicant, the scheme would have been supported at senior level and an appeal averted altogether.
10. Furthermore, for the reasons set out in my appeal decision, I have concluded that the appeal should be dismissed, and planning permission refused. Therefore, I do not find that the Council delayed a planning application which should have been permitted.
11. I am aware the applicants have twice pursued matters through the Council's formal complaints procedure although I am unclear as to whether this has since been pursued with the Ombudsman. However, any potential matters of maladministration are indeed best addressed through those routes rather than through me.

SBCB Housing

12. With regard to the issue of SBCB housing, I agree with the applicants that the Council's approach as set out in the Officer Report (OR) was wrong. The situation did not appear to have been fully understood in relation to the legislation or the Council's previously stated position. This is particularly curious given that the Council appears to have suggested that the proposal be amended to SBCB housing in the first place.
13. The applicants also suggest that the Council sought to deliberately conceal information from them on the issue. The OR suggests to me that an insufficient understanding of the situation and insufficient interrogation of the information were the core reasons for the Council's failure to properly reflect the correct position. Thus, while I cannot be certain of the applicant's claims regarding deliberate concealment, their frustrations are understandable.
14. Even though the Council did not deal with the matter correctly, it seems to me that if greater weight had been applied to the issue, a different outcome would not

necessarily have resulted and an appeal averted. Indeed, I found in favour of the applicant on this issue but did not consider it to be sufficient on its own or in combination with other matters to tip the balance in favour of the development.

15. Nonetheless, had the Council understood the situation correctly; engaged internally with the appropriate teams and with the applicants on the matter; and had a better overall management of the subject and its application, then much of the work undertaken by the applicants on this issue would not have been necessary. Indeed, the Council's initial costs rebuttal and its revised position on the matter, which should have been part of its appeal submission, is an acknowledgement that the Council misunderstood the situation and provides support to the contention that much of the work was largely unnecessary.
16. Clearly some of the applicant's initial research work may have been necessary at the application stage, to establish the situation and understand where the gaps in the Council's position lay. However, this should have quickly established common ground on the issue and avoided the extra work occasioned by the Council's lack of understanding and engagement on this issue.
17. Therefore, on the matter of SBCB housing I do find the Council's approach to have been unreasonable behaviour and that this resulted in unnecessary costs for the applicants that covered much of the application stage as well as at appeal.

The Framework

18. Paragraph 11 of the revised Framework now makes specific reference to certain key policies. These policies and their objectives were within previous versions of the Framework albeit they were not referenced by paragraph 11. The weight to be applied to an issue or policy is a matter for the decision maker but this paragraph does not say that failure to meet these stated policies now carries additional negative weight in the balancing exercise.
19. Whilst I therefore have concerns about this aspect of the Council's appeal statement, the Framework's revised wording did not apply at the time the Council made its decision on the planning application. Thus, it was not erroneously taken into account at that stage. Even if the Council at appeal had not taken the view that there was now 'extra negative' weight to be attached to these issues, and thus maintained its previous position, it seems self-evident that the scheme would still have been considered unacceptable by the Council.
20. However, once at appeal, the Council's actions in relation to the Framework's wording and the suggestion of there being extra negative weight caused the applicants to undertake some additional work. Whilst this work may not have been extensive, it was nonetheless work which should not have been necessary and was caused by the Council's unreasonable behaviour in deciding extra negative weight applied.
21. I agree that the reference to paragraph 110 (now 111) of the Framework seems misplaced and the Council's subsequent suggestion that it was likely to have been a spelling error somewhat baffling given the number of times it is referenced in the OR. Even though I have broadly agreed with the Council, and with the application of other paragraphs within the Framework, that the current appeal site is not sustainably located, there is no clear explanation for the references to former paragraph 110.

22. Regardless of how the reference to paragraph 110 arose, the Council's stance in relation to it has been confusing and amounted to unreasonable behaviour that required the applicants to undertake additional work. It may have only been one small part of their overall defence of the site's location, but it required additional expense to be incurred by the applicants which should not have been necessary.

Council's Appeal Statement

23. A Council is not obliged to submit an appeal statement and relying on the OR is not in itself an unreasonable approach. I have some sympathy with the applicants' criticisms of the OR and it may have been helpful if the Council's appeal statement had more fully advanced their case or responded to the applicant's appeal statement. Nonetheless, it is clear from the OR where the Council's main concerns lay and why the proposal was not considered to be acceptable. The decision was framed within the context of the development plan.
24. The applicants do not consider the Council to have substantiated their case and in particular criticise the Council's lack of proper assessment of the transport options and recent nearby decisions and the weight they should attract in this case. They also consider the Council to have shown a lack of clarity on various issues.
25. However, as already noted, I have reached similar conclusions to those of the Council. I did not find their overall concerns to have been vague or inaccurate nor their approach inconsistent with other decisions. In respect of the latter point at appeal, the main parties chose to highlight different aspects of the Averys decision to support their own positions, but this is not uncommon. Ultimately, I read that decision and drew my own conclusions. I also read the other decisions presented in the appeal, including for the Orchards, but for the reasons stated, did not find them to have a degree of consistency with the appeal situation or to have established a position which justified allowing an additional eight houses in this location.
26. Overall, I have found the Council to have had reasonable concerns which it articulated to a sufficient degree and justified the decision. Consequently, I have not found the Council to have prevented a development which should clearly have been permitted.

Additional Response

27. The Council's costs response included a defence of their substantive planning case as opposed to simply being a rebuttal of the costs claim. This was queried by the applicants, and a revised costs rebuttal was sought from the Council. The Council's actions in providing substantive comments after the submission of the appeal statement also necessitated permitting the applicants an additional opportunity to respond via a Second Final Comments Statement. This needed to address both substantive planning issues and the issue of costs.
28. The applicants suggest that this was a deliberate attempt to introduce new information. Whilst it did introduce new information, the fact that part of the submission was titled 'Appellant's Final Comments, and the LPA Responses' suggests that it may have been a lack of knowledge of appeal procedures rather than something more underhand.
29. However, regardless of that, it was clearly detail which should not have been submitted at that stage. Had the Council acted in accordance with the relevant

guidance and procedures the applicant would not have subsequently needed to produce the additional response. I find the Council's actions in this respect to have been unreasonable and as a result the costs incurred by the applicants in having to prepare and submit a second final response to have been unnecessary.

Costs Order

30. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Lewes District Council shall pay to Miss & Miss Carmella & Dolores Tebbutt, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in having to: address the issue of SBCB housing; address the Council's incorrect approach to Framework policies 11 and 111 (previously 110); and in having to prepare and submit a Second Final Comments Statement to address both planning and costs issues; such costs to be assessed in the Senior Courts Costs Office if not agreed.
31. The applicant is now invited to submit to Lewes District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Stewart Glassar
INSPECTOR