
Costs Decision

Site visit made on 26 August 2025

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2025

Costs application A in relation to Appeal Ref: APP/Y3940/W/25/3363961

Sandy Furlong Farm, Compton Road, Hilmarton, Nr Calne, Wiltshire SN11 8SH

- 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 Mathurst Developments Ltd for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for the erection of 13 dwellings for independent older persons, associated parking, landscape and works.

Costs application B in relation to Appeal Ref: APP/Y3940/W/25/3363961

Sandy Furlong Farm, Compton Road, Hilmarton, Nr Calne, Wiltshire SN11 8SH

- 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 Wiltshire Council for a partial award of costs against Mathurst Developments Ltd.
 - The appeal was against the refusal of planning permission for the erection of 13 dwellings for independent older persons, associated parking, landscape and works.
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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.
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. The appellant contends that Wiltshire Council (WC) has acted unreasonably on a number of grounds including continued resistance to the scheme; failure to produce substantive evidence to support the reasons for refusal and prolonging the period for determination of the application.

7. There is no dispute that the publication of the revised National Planning Policy Framework (the Framework) and application of the standard method for determining the minimum number of homes needed resulted in a significant change in circumstances in respect of WC's five-year housing land supply position.
8. Whilst the Framework is a material consideration of significance the development plan still has primacy in the decision-making process. The weight to be given to relevant policies, which are most important for determining the application, is essentially a matter of planning judgement. The decision to advocate resubmission of an application or to defend an appeal is essentially a matter for WC depending on their appetite.
9. Whilst I have not sided with WC regarding the merits of the development it is apparent that they considered there was sufficiently strong grounds to defend their position. The case officer produced a cogent report and a decision notice which detailed the reasons for refusal. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would be in conflict with.
10. I have noted the advice of WC's Highways Development Control Team and the Urban Design consultee. However, the decision is one which is a matter of planning judgement based on the merits of the case. Whilst the case officer has taken what could be considered a different view from that of their consultees, they are not duty bound to follow that advice, provided that there are sufficient planning grounds to come to a contrary view. I am of the view that their reasoning has been adequately substantiated in the officer report and at appeal. Furthermore, whilst I concur with the appellant in terms of Policy CP46 I cannot say that WC has erred in their interpretation of this policy, but rather that they have exercised reasonable planning judgement. I find that it was not unreasonable for WC to have reached a different view to the appellant.
11. I note the frustrations levelled by both main parties against one another in respect of the planning application process prior to submission of the appeal. However, there is nothing substantive before me to clearly indicate that WC failed to understand the proposal or give due regard to the merits of the scheme. Nor is there anything credible to suggest that it was pre-judged or there was a deliberate attempt to delay the application for administrative purposes. In any event the PPG is clear that costs cannot be claimed for the period during determination of the planning application.
12. I therefore find that WC 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 WC is not justified.

Application B

13. Paragraph 053 of the PPG sets out examples of unreasonable behaviour by appellants that could give rise to a substantive award. Whilst there is disagreement between the main parties in respect of Policy CP46 I cannot agree with WC that the appellant's interpretation is illogical or relies on wording or explanatory text that does not exist. This matter was one presented within the appellant's written evidence, it formed a main issue and was discussed in detail during the course of the Hearing. As seen by my decision I cannot say that the appellant has acted

unreasonably in pursuing this element as it is one that goes to the heart of the planning considerations particular to this case and clearly I found that the appellant's argument had merit.

14. I acknowledge that the Council are somewhat disappointed by some of the comments directed towards the case officer regarding management of the planning application. However, these comments are evidently a result from the appellant's sense of frustration with the planning process prior to the appeal. Whilst WC has had to produce a rebuttal of the appellant's costs claim this 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 in this regard.
15. In my judgement WC's application for a partial award of costs against the appellant is frivolous and undermines the aim and purpose of the costs regime. For this reason, and having had regard to all other matters raised, the appellant has not acted unreasonably which has directly caused unnecessary or wasted expense. Therefore, a partial award of costs against the appellant is not justified.

B Thandi

INSPECTOR