Planning Inspectorate

Costs Decision

Hearing held on 8 July 2025

Site visit made on 8 July 2025

by J Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2025

Costs application in relation to Appeal Ref: APP/H1840/W/24/3358300
The Laurels, Evesham Road, Egdon, WR7 4QR

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
- The application is made by Wychavon District Council for a partial award of costs against Mr Nathan Smith.
- The appeal was against a refusal of planning permission for the change of use of two existing dayrooms and extension to provide a permanent dwelling.

Decision

1. The application for an award of costs is refused.

The submissions by the applicant.

2. It is usual for the appellant to draft the Statement of Common Ground (SoCG) rather than the Council. No draft was submitted by the appellant and the Council's planning officer spent a significant amount of time drafting the SoCG, with several emails exchanged back and forth with the appellant, because the appellant had not submitted a draft or expressed willingness to progress the document.

3. It was the intention to present a fully drafted s106 to the Inspector at the hearing for consideration. However, the Council's legal team have spent considerable time chasing and requesting information, clarifying plans and documents, which is time over and above what should be necessary for preparing the s106. Delays were significant and avoidable, incurred wholly by the appellant during this legal process.

4. No up front legal costs were paid by the appellant prior to the hearing, to cover the initial legal preparation of drawing up the s106. The Inspector granted a 10 working days extension period for the completion and submission of the s106. During this extension period, the original fee costs have been paid, yet do not cover the additional costs incurred during the extension period. It has proven impossible to adhere to the extension timetable because the appellant would not confirm the payment of the Council's reasonable legal costs in preparing the draft s106. The appellant's position being that for a large part of the process, he would only pay these costs if the appeal was allowed and would not provide the necessary legal documentation that proved he owned the site.

5. The Inspector permitted the appellant additional time to submit a completed agreement and whilst the Council does not object in principle to such a time extension, there has been significant difficulty based on the issues above in trying to conclude the agreement. It has not been a smooth, time efficient process and

the Council has wasted unnecessary time and expense in a prolonged message exchange with the appellant seeking to secure the required information. Indeed, the Council obtained the land registry documentation to verify the appellant's title to the site in order to expedite the process. The Council's solicitor sent an email to planning officers shortly before the hearing summarising the s106 position, a copy of which was forwarded to the Planning Inspectorate. To date, no s106 has been completed.

6. During the initial preparation of the s106, due diligence was undertaken in confirming legal ownership of the land within the application site. The land ownership red line on the plans, included land outside of the appellant's ownership, including unregistered and County highways land. The Inspector requested that the appellant re-issue the correct application Ownership Certificate B in order to regularise this anomaly in process terms. This process has incurred additional time for officers, as the completed Certificate B was submitted to Council officers, who then had to forward the serving notice onto the County highways on behalf of the appellant. This is not how the notice should be served by the appellant, but the planning officer again felt duty bound to enable the process and spend time assisting the appellant.

Response by respondent

7. The appellant has paid a fee for the preparation and completion of a s106 agreement and yet no receipt for payment has been received nor any draft agreement submitted to the appellant. The appellant has always accepted payment of the affordable housing contribution if the appeal was allowed. There is no procedure for the submission of an application for costs after the hearing has closed.

8. The appeal site would be covered by a housing allocation under the emerging local plan, Worcester Parkway scheme, which the appellant has pointed out despite the Council's officers initially denying this. The appellant has had surveyors on his land, working for the Council, in respect of this allocation which has caused much distress. It was only at the hearing that full details of this allocation emerged.

Reasons

9. 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.

10. The application relates to the appellant's unreasonable behaviour in terms of procedure. During the appeal process, all parties are expected reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. The Council has assisted the appeal process in its work on the draft SoCG, s106 agreement and through its work on the later, anomalies in the application Ownership Certificate have been identified and resolved.

11. However, the application for costs was made after the hearing closed and in such a situation, the PPG[1] indicates any applications must be made before the hearing is

[1] Planning Practice Guidance Paragraph:035 Reference ID: 16-035-20161210

closed. The Council has undertaken work on the s106 after the closing of the hearing but it is the responsibility of the appellant to submit the s106 agreement and undertake all relevant preparatory work for this, including the instructions of other parties to assist with this, in this case the Council. The Council has undertaken further work above that already paid for but, as with any normal business undertaking, it should have ensured additional cost was secured by payment by the appellant.

Conclusion

12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

JParsons

INSPECTOR