
Costs Decision

Site visit made on 30 September 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2025

Costs application in relation to Appeal Ref: APP/L1765/W/25/3361293

Land Adjacent Lodge Green, Whiteley Lane, Titchfield, Hampshire PO15 6RW

- 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 Patrick O'Sullivan (Whiteley Developments Ltd) for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of planning permission for erection of 2 detached self-build houses with detached garages, parking, turning and landscaping.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process.
4. The applicant is seeking a full award of costs on the basis that it considers that the Council has behaved unreasonably throughout the appeal. It has not directly referenced the Guidance listed examples of unreasonable behaviour by local planning authorities which may give rise to an award of costs¹, but I have had regard to the Guidance in my determination of this costs application.
5. The applicant's costs application refers to the Council's decision to refuse being solely based upon its view that the site lies within ancient woodland. However, the Council's decision is based upon other matters too and I find all 6 reasons for refusal, as listed on the decision notice to be complete, precise, specific and relevant to the application, and to clearly state which development plan policies and/or sections of the *National Planning Policy Framework 2024* (the Framework) the proposal would conflict with.

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

6. I find that the Council's fourth reason for refusal was justified at the time of the determination of the application, having regard to the information that had been submitted with the planning application which was not sufficiently detailed in respect of the proposed vehicular access arrangements so as to enable the Highways Authority to be satisfied that there would be no harm to highway safety.
7. The submission of further information and clarification of the proposed access arrangements by the applicant after the refusal of the application resulted in the concerns of the Highways Authority, who are responsible for the safety of users of the local highway network, being satisfactorily addressed. As such, the Council acted reasonably by confirming this through its statement of case and thereafter not pursuing this reason for refusal.
8. I find that the remaining reasons for refusal, notwithstanding that there was no need for me to come to a conclusion in respect of the third reason for refusal, have all been substantiated by the Council having regard to national and local planning policy, both within the planning officer's report and the Council's appeal statement and also taking into account the planning application and appeal history of the site and the consultee responses received. The latter includes the response from Natural England (NE) as the statutory nature conservation consultee.
9. Whilst the Council did not consult NE prior to the determination of the application, this has not constituted unreasonable behaviour having regard to the matter of ancient woodland impacts, since the officer report and the Council's second reason for refusal clearly confirm that the Council had taken account of NE's Standing Advice in respect of ancient woodland when determining the planning application, including the requirement for a 15m ancient woodland buffer. Also, the second reason for refusal acknowledges the failure of the proposal to accord with this standing advice.
10. Moreover, the response from NE following the refusal of the application accords with the Council's application and appeal assessment of this matter. Notably, since the appeal scheme did not accord with its Standing Advice, NE's response does not confirm that NE had no objection to the planning application,.
11. Moreover, my appeal Decision, which accompanies this costs Decision and should be read in conjunction with it, explains that I have dismissed the appeal and why I find that the Council was justified in refusing the application based on refusal reasons 1, 2, 5 and 6.
12. It includes confirmation that the current appeal must be determined on the basis of current planning policies and guidance, including the current ancient woodland mapping, regardless of whether it had changed in the past, and also including taking account of the weight given to the protection of ancient woodland within the Framework and the publication of the current NE Standing Advice in 2022. These post-date some of the earlier engagement the applicant carried out with NE in respect of previous development proposals for the appeal site.
13. Having regard to the sixth reason for refusal in respect of Great Crested Newts and biodiversity net gain, my appeal Decision explains why, notwithstanding the supporting information submitted by the applicant's ecology consultant, I have found that these matters have not been satisfactorily addressed and cannot be dealt with by means of a planning condition.

14. The conclusions reached in my appeal decision on the main issues show that, having regard to current relevant national and local planning policy and the information originally submitted by the applicant with the planning application, I find that the Council was justified in requiring additional and/or updated ecological, biodiversity and arboricultural information be submitted in order to address outstanding matters in these respects, and therefore acted reasonably in so doing.
15. Also, the evidence before me is that, when additional information was submitted by the applicant during the course of the application, including updated ecological supporting information, the Council responded to this in a timely manner and took it into account in the determination of the planning application.
16. Whilst the applicant may have appointed a barrister to support its appeal submissions, this was not specifically sought by the Council, and I am not persuaded, based on the evidence before me, that the matters involved in the determination of the planning application and subsequent appeal, including the provision of custom and self-build plots, necessitated legal representation.
17. Notably, the applicant did not seek pre-application advice from the Council, as advocated in Chapter 4 of the Framework in order to identify the likely planning issues and what supporting information would be required to be submitted in respect of the planning application. Whilst the site has a planning history of planning applications and appeals, due to the time that has elapsed since the last decision, I find that they do not necessarily preclude the need for pre-application advice in respect of the current scheme for custom/self-build housing.
18. The applicant refers to the failure of the Council to reference a recent allowed appeal² for custom and self-build housing within its statement of case. As this was raised at final comments stage by the applicant, I sought the Council's views on the relevance of this appeal. My appeal decision explains why I consider that it is not directly comparable to the current appeal circumstances. Accordingly, I do not find that the Council acted unreasonably by not mentioning this appeal decision.
19. Accordingly, having regard to the above, I find that the Council was entitled to refuse the application for the reasons given and to defend the appeal for the reasons stated, and it has not acted unreasonably in so doing.

Conclusion

20. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

S Leonard

INSPECTOR

² APP/L1765/W/24/3350662