
Costs Decision

Site visit made on 4 November 2025

by **A O'Neill BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Costs application in relation to Appeal Ref: APP/T3725/W/25/3369156

Land to rear of Clover Hill, Warwick Road, Lapworth

- 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 J & M Green, HCD for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for the erection of a detached dwelling and garage with associated access, parking and landscaping.
-

Decision

1. The application for an 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. In claiming the costs of the appeal, the applicant submits that the Council has acted unreasonably in both substantive and procedural terms.
3. In substantive terms, the application is based on five points: that the reason for refusal is not justified; that the Council's Statement of Case does not include additional information beyond the Officer's report; that there is a lack of relevance and explanation of the submitted High Court case; that the Council did not consider the restrictive covenant affecting the site as a material consideration; and, that the Council did not share legal advice referred to in the Officer's report. I deal with these points in turn below.
4. The applicant alleges that the reason for refusal is not justified and is not supported by Local Plan policy. The reason for refusal does not cite any Local Plan policies, but it does identify conflict with the National Planning Policy Framework. The Framework is an important material consideration and, as I have found in my Appeal Decision, the reason for refusal is justified. I therefore do not find the Council acted unreasonably in this regard.
5. The applicant submits that the Council's Statement of Case provides no additional information beyond that which was provided in the Officer's report (a document entitled 'Delegated Decision Worksheet'). In this regard, the applicant alleges that this appears obstructive and unreasonable. The Council confirms that the Statement of Case was submitted to clarify matters raised at the appeal stage. The Council is entitled to rely on its Officer's report for the appeal, and I do not find the

contents of the Statement of Case to be obstructive nor their approach to rely on the Officer's report, unreasonable.

6. During the appeal process the Council submitted the High Court Judgement R (Save Wimbledon Park Ltd) v Mayor of London [2025] EWHC 1856 (Admin). Whilst I have found that the specifics of that case are not directly comparable to the appeal case before me, the judgement does confirm that legal obstacles, such as restrictive covenants it would not ordinarily be a material consideration to the determination of a planning application. Consequently, it was not unreasonable for the Council to consider this relevant to their case.
7. The application also alleges that the Council withheld legal advice which it had sought in relation to the restrictive covenant on the site. However, the Council has provided evidence that a summary of that advice was communicated to the applicant, by email on 16 March 2025, prior to the determination of the planning application on 13 June 2025. I therefore do not find the Council acted unreasonably in this regard.
8. Finally, in substantive terms, the applicant submits that the Council acted unreasonably in not considering the restrictive covenant on the site as a material consideration. The Officer's report includes a section on the covenant, concluding that it is not a material planning consideration. As I have found in my Appeal Decision, this is consistent with Planning Practice Guidance which states: "*Land ownership, including any restrictions that may be associated with land, is not a planning matter*" (Paragraph: 005 Reference ID: 13-005-20140306). Therefore, the Council did not act unreasonably in relation to this matter.
9. In procedural terms, reference is made to the length of the planning application process. The applicant has provided a copy of a complaint to the Council, including a timeline of events. This does show that there were some delays in the process. However, costs may only be awarded for unnecessary or wasted expense incurred during the appeal process. As outlined in Paragraph 033 of the Planning Practice Guidance (PPG), costs cannot be claimed for the period relating to the determination of the planning application. Therefore, although I acknowledge the applicant's frustration regarding the time taken by the Council to reach its decision, I am unable to award costs associated with that stage.

Conclusion

10. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

A O'Neill

INSPECTOR