



Costs Decision

Site visit made on 19 September 2025

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2025

Costs application in relation to Appeal Ref: APP/K0940/W/25/3365484

Land North of Gatebeck Lane, Endmoor, Kendal LA8 0HR

- 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 L & W Wilson (Endmoor) Ltd for a full award of costs against Westmorland and Furness Council.
 - The appeal was against the refusal of planning permission for the change of use of agricultural land to business park use; construction of 6 new employment buildings and associated site works (Class E(g), B2 and B8 uses).
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Decision

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

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.
3. The application for costs relies to a substantial extent on whether the Council has acted unreasonably by preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and other material considerations, failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The planning application went to the Council's planning committee on two occasions following a deferral and ongoing dialogue between the main parties and was recommended for approval on both occasions. Based on the information before me there was a significant amount of local objection to the scheme relating mainly to highway matters. On the second occasion it had a recommendation of approval subject to a Section 106 agreement, to secure HGV routing which was advised by both the Council's legal and highway advisors.
5. The application was refused by the planning committee on highway grounds contrary to officer recommendation.
6. The Council's planning committee is a fundamental part of the Council's ability to discharge its planning function and is permitted to disagree with an officer recommendation. The proposal was recommended for approval subject to a Section 106 agreement which would have resolved the issue of HGV routing. The remaining objection therefore related to severe residual cumulative impact on

- surrounding roads as a result of the development, and that the proposal has not established a current baseline traffic flow and cannot be assessed accurately. The reason for refusal included relevant policy.
7. Having had regard to technical highway information provided by a highway consultant during the application stage, together with the material considerations specific to this case. The information provided by the applicant enabled the application to receive support from both the Council's Highway officer and the planning officer who were satisfied that the proposal was acceptable on highway grounds, subject to suitably secured HGV routing. However, in this case I consider that there is limited substantive evidence before me provided by the Council to explain the departure from the planning officer's recommendation.
 8. I am satisfied that the Council has engaged in the appeal process, the Council's appeal statement concluded that the updated technical highway information should not be provided at appeal stage, as it was not before the Council when it made its decision. For the reasons mentioned in the appeal decision, I did not consider the new information.
 9. The Council's costs statement states that the applicant demonstrated unreasonable behaviour during the application process, by way of a lack of co-operation, in this case by not agreeing to an extension of time. I do not consider this to amount to unreasonable behaviour as this was not a procedural matter relating to the appeal, but rather during the application process.
 10. Notwithstanding my conclusions on the appeal and significant concerns around securing HGV routing, an issue fundamental to highway safety, the matter that was before me. Had the Council agreed with the officer recommendation, a Section 106 agreement would have still been required between the main parties to secure HGV routing. Even if those negotiations had taken time, it is unlikely that the proposal would have led to an appeal and the unnecessary and wasted expense associated with it.
 11. Accordingly, I am of the view that unreasonable behaviour as described in the PPG¹ has been demonstrated on the part of the Council with regard to delaying development which should be permitted having regard to its accordance with the development plan and other material considerations and failure to substantiate the reason for refusal on appeal.

Costs Order

12. 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 Westmorland and Furness Council shall pay to L&W Wilson (Endmoor) Ltd the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.

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

13. The applicant is now invited to submit to Westmorland and Furness 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.

N Duff

INSPECTOR