



Costs Decision

Hearing held on 25 November 2025

Site visit made on 25 November 2025

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2026

Costs application in relation to Appeals Refs: APP/L3815/C/25/3369025, APP/L3815/C/25/3369026

Land south of Hook Lane, Bosham, West Sussex, PO18 8EX

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Chichester District Council for a partial award of costs against Mr John Wells and Mrs Susie Wells.
 - The appeal was against an enforcement notice alleging the construction of concrete pads.
-

Decision

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

Procedural matters

2. An application for costs made by the appellants against the Council is the subject of a separate Decision. The Council when responding to that application made its own counter claim for a partial award of costs, the subject of this Decision.
3. The deadlines for making an application for costs are set out in Planning Practice Guidance: Appeals¹. In the case of hearings and inquiries all costs applications must be formally made to the Inspector before the hearing or inquiry is closed. If the application relates to behaviour at a hearing or inquiry, the applicant should tell the Inspector before the hearing is adjourned to the site, or before the inquiry is closed, that they are going to make a costs application. Anyone making a late application for an award of costs outside of these timings will need to show good reason for having made the application late, if it is to be accepted by the Secretary of State for consideration.
4. The costs application was prompted by a matter that was introduced by the appellant on the morning of the hearing. The Council did not indicate a costs application was to be made before the hearing was adjourned to the site because at that time full advice had not been received from the Council's solicitor. The application was made before the hearing was closed in writing and has been accepted by the Secretary of State.
5. The costs application, the response by the appellants and the Council's final response were submitted in writing.

¹ Planning Practice Guidance: Appeals, Paragraph: 035 Reference ID: 16-035-20161210

Reasons

6. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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. The aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. Types of behaviour which may give rise to a procedural award against an appellant include (i) introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen, and (ii) prolonging the proceedings by introducing a new ground of appeal or issue.
7. Shortly after the hearing opened the appellants confirmed their primary argument on the ground (c) appeal had two limbs. The first limb concerned the date of the Council's response to the 2021 application on prior approval, where reliance was placed on the *Murrell* judgement. The judgement and a written confirmation of the date of receipt of the application were handed in as documents (the new documents). When I asked why the matter had not been raised earlier, the appellants stated that it was prompted by the agenda for the hearing, which included the question 'have all conditions and required procedures in the General Permitted Development Order been complied with'. I decided to accept the introduction of this matter because it concerned a matter of law on a legal ground of appeal. I did not expect the matter to be fully dealt with at the hearing because of the legal points raised. At the end of the day's proceedings a timetable was agreed for making written submissions to ensure no prejudice to the Council and the interested parties.
8. The Planning Inspectorate's Procedural Guide: Enforcement Appeals – England states that hearing statements should contain full details of the case (for each ground of appeal selected) which the appellant proposes to put forward at the hearing and copies of any documents which that party intends to refer to or put in evidence. The Procedure Guide also states sticking to the timetable is fundamental to a fair and efficient appeal service. Where exceptional circumstances can be demonstrated, the Inspector can, at their discretion, accept a late document. Acceptance of a late document may disrupt the appeal timetable and the party that submitted the late document opens themselves up to a costs award.
9. The start letter for the appeals said the hearing statement was due on 28 August 2025 but subsequently the period was extended to 11 September following the decision that the ground (a) appeal was not barred. Statements were submitted in accordance with the revised timetable. The appellant's ground (c) case, that the works are permitted development, was based on the wording of the Council's decision document and not directly the date the decision was issued.
10. The agenda for the hearing was circulated on 17 November, a week before the hearing was due to take place. The new documents were handed to the Council before the hearing was formally opened, the Council say approximately 20 minutes before the proceedings began.

11. The appellants say, prompted by the hearing agenda, they revisited the question of compliance with the dates of submission and response. Reference is made to comments by an Interested Party in email correspondence with the Council in January 2025 and released to the appellants following a Freedom of Information (FOI) request. The dates related to the FOI request were not specifically stated but the process appears to have been instigated in January 2025. The information was available to the appellants when preparing their statement of case before 10 September. In their statement other matters resulting from the FOI are highlighted but not the clarification sought by Interested Parties over dates.
12. It was not unreasonable for the appellants to draw attention to the timescales for decisions in the Order and associated case law. Whether it was unreasonable behaviour rests on the timing of doing so, bearing in mind the dates became a primary and potentially determinative argument in the ground (c) appeal. The issue could have been identified much earlier because it did not arise from new evidence or involvement or exceptional circumstances. The date of the Council's decision was 29 March 2021. The *Murrell* judgement was made in 2010 and was described by the appellants as well-established case law. The appellants' planning consultants, experts in rural planning, were appointed after the refusal of planning permission in January 2024 and a legal opinion was sought in May 2024. Even with the issue being prompted by preparation for the hearing, notice of the intention to raise the matter and an outline argument should have been presented to the Planning Inspectorate and the Council before the morning of the hearing.
13. My conclusion is the introduction of the date issue very late in the appeal proceedings amounted to unreasonable behaviour.
14. Planning Practice Guidance states an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. This could be the expense of the entire appeal or other proceeding or only for part of the process.
15. The expense incurred by the Council was not wasted because the date issue was very relevant to the ground (c) appeal. Both sides of the argument were supported by reasoned submissions. A costs award on substantive grounds is not justified. However, the late submission and without any warning required the Council's urgent and unplanned attention outside of the timetable for the appeal. The probability is the urgent work undertaken in responding led to additional costs over and above what would have been incurred if the matter had been raised at the appropriate time.
16. For the reasons given above, unreasonable behaviour resulting in unnecessary expense has occurred in respect of the late introduction of the date issue and a partial award of costs is therefore warranted.

Costs Order

17. 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 Mr John Wells and Mrs Susie Wells shall pay to Chichester District Council, the costs of the appeal proceedings described in the heading of this decision limited to those

additional costs incurred in responding to the decision timescale and date issue; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr John Wells and Mrs Susie Wells, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Diane Lewis

Inspector