



Costs Decision

Site visit made on 2 December 2025

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2026

Costs application in relation to Appeal Ref: APP/P1425/W/25/3368895

Merlins, Uckfield Road, Ringmer, East Sussex BN8 5RU

- 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 Akehurst Homes Ltd for a full award of costs against Lewes District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the demolition of existing buildings, erection of new employment/commercial units and up to 43 residential dwellings and other associated works with all matters reserved apart from access to the site.
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Decision

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

Reasons

2. 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.
3. The application is made on 4 substantive grounds. The first is that the Council's position is inconsistent with the Inspector's findings on accessibility to services and facilities in the Averys Nursery appeal. The weight to give to what is agreed as sub-optimal accessibility is a matter of judgement. It will be apparent from my decision and that of the Inspector in the appeal on land to the east of The Orchards that such judgement is dependent on the circumstances of each case and the comparative weight of other issues. I do not therefore consider that it was unreasonable for the Council to argue as they did as to the significance of that issue.
4. The second ground is that the Council placed undue weight on the key policies referred to in paragraph 11 d) ii) of the National Planning Policy Framework (the Framework), in particular that directing development to sustainable locations. The December 2024 version of the Framework does introduce explicit reference to key policies in paragraph 11 d) ii), and that particular regard should be had to them. It is a matter for the decision-maker to decide on the weight to be given to those policies dependent on the circumstances of the case. The Council was entitled to draw attention to this change in the wording of paragraph 11 d) ii) and it was reasonable to give the policies referred in it particular regard in applying the tilted balance. In that respect my view differs from that reached by the Inspector in his costs decision on land to the east of The Orchards. Having particular regard applies equally to the other key policies referred to in paragraph 11 d) ii), but I am satisfied

that the Council did have regard to the benefits of the proposal in reaching its position, even if it did not give them the weight that the appellant would have preferred.

5. The third ground is that the Council misapplied Policies CP11 and DM25 relating to design, because design is a matter reserved for later consideration. In that regard, I do find the Council's case to be somewhat confused. It conflates the principle of development and its location with that of design. While the Council has highlighted certain criteria in Policies CP11 and DM25 which touch on accessibility, the main thrust of both policies is aimed at the detailed design of new development including matters such as layout, scale and appearance. As the proposal is made in outline, those matters are reserved for later consideration and are not relevant to the current appeal. To that limited extent, I consider that the Council's reliance on design policies was unreasonable and the cost of the appellant responding to those policies was incurred unnecessarily.
6. The fourth ground is that the Council has been inconsistent in its decision making, in particular with the grant of permission for development at McBeans Orchid Nursery. As I have found that there are material differences between the appeal scheme and that granted at McBeans Orchid Nursery, I do not consider that the Council has been inconsistent in that regard.
7. Although the appellant is not pursuing a claim on procedural grounds, they are clearly frustrated by what they characterise as inconsistency between advice received prior to and during the application process, and the recommendation made to the Council's planning committee. I understand that frustration. However, costs can only be awarded for unreasonable behaviour that results in unnecessary expense in the appeal process. For the reasons I have set out above, those are limited to the need to respond to the Council's case on design and Policies CP11 and DM25.

Costs Order

8. 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 Lewes District Council shall pay to Akehurst Homes Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to arguments on design and Policies CP11 and DM25; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Lewes District 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.

Guy Davies

INSPECTOR