
Costs Decision

Hearing held on 2 December 2025

Site visit made on 2 December 2025

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2026

Costs application in relation to Appeal Ref: APP/P1615/W/25/3362659

Land north of the Lydney Road, Bream

- 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 Powells for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for development of the land for up to 30 residential dwellings (C3) with associated highway access and infrastructure.
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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.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for the reasons considered below.
4. The appeal site is identified as a potential allocation within the emerging local plan. However, the emerging local plan is only at Regulation 18 stage, which is the earliest and least certain point in the plan-making process. At this stage, the LPA is required to consult on a broad range of possible development sites to test their suitability and identify any constraints that may affect deliverability. Inclusion of a site at Regulation 18 does not indicate that it is acceptable in principle, nor that it will progress to Regulation 19 or adoption; it is simply part of an initial options-testing exercise. Accordingly, only very limited weight can be given to the draft allocation.
5. The purpose of Regulation 18 consultation is to invite representations and evidence on issues such as odour, access, landscape and infrastructure, so that potential constraints can be identified before any site is taken forward. The LPAs evidence confirms that concerns relating to the proximity of the poultry farm were raised during this consultation, demonstrating that the plan-making process is operating as intended. The applicant's suggestion that the LPA failed to identify odour constraints is therefore not supported by the consultation record.

6. Moreover, the pre-application advice issued in July 2022, identified odour from the nearby poultry farm as a matter requiring careful assessment. The applicant was therefore aware well before submission of the application that odour was a relevant and potentially determinative issue. The LPAs subsequent reliance on odour evidence at application stage is entirely consistent with that earlier advice and cannot reasonably be characterised as a late or unexpected objection.
7. The applicant maintains that their odour assessments, the Odour Management Plan and the Environment Agency's consultation responses show that the poultry farm does not present a material constraint, and that the LPA failed to produce evidence to the contrary. However, the LPA commissioned an independent odour specialist and obtained detailed advice from its Environmental Health Officer. These expert responses, summarised in the committee report, provide a clear evidential basis for the LPAs position.
8. The committee report sets out a full assessment of odour impacts under "Living Conditions," drawing directly on this specialist advice. It explains why the LPA considered that unacceptable odour effects could arise for future occupiers, and its reasoning is grounded in technical evidence and relevant planning policy. The applicant's differing interpretation of the evidence does not undermine the legitimacy of that assessment.
9. In the LPAs opinion the further evidence submitted at appeal, which includes the Odour Technical Note and Odour Management Plan for the Poultry Farm do not resolve the concerns identified. Indeed, in part, these submissions acknowledge that the poultry farm has generated odour complaints locally. While the Environment Agency may not have substantiated these for permitting purposes, the planning system applies different test focused on future residents' amenity. The LPA was therefore required to consider whether odour could materially affect living conditions, and it did so in line with planning policy and guidance.
10. The applicant's suggestion that the absence of a separate statement of case reflects a lack of seriousness or an inability to defend the reasons for refusal is not supported by the evidence. The LPA has engaged with the appeal process, completing the appeal questionnaire, undertaking the required consultations and responding to the costs claim within the prescribed timeframes. This demonstrates proper and timely participation.
11. The LPA is entitled to rely on the committee report as its statement of case. There is no requirement for an LPA to submit a separate statement of case where its committee report already sets out appropriate justification for the decision.
12. The committee report in this case contains a full assessment of the planning merits, sets out the relevant evidence and explains the reasoning behind the refusal. The LPA has provided sufficient information for me to understand and assess its position and this was supported by evidence given at the Hearing.
13. Overall, the matters raised by the applicant are mainly issues of planning judgment and procedural matters, not grounds for an award of costs.

14. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR