



Costs Decision

Site visit made on 27 November 2025

by S F Murphy BSc (Hons) MSc MRTPI MISEP CEnv.

an Inspector appointed by the Secretary of State

Decision date: 15th January 2026

Costs application in relation to Appeal Ref: APP/P1425/W/25/3373753

98 South Coast Road, Peacehaven, East Sussex BN10 8SN

- 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 LH Property Investments Ltd for a full award of costs against Lewes District Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission for the redevelopment of the site to provide a new purpose-built residential apartment block containing seven units.
-

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, irrespective of the outcome of the appeal, 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 PPG explains unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive relating to the issues arising from the merits of the appeal. The PPG goes on to clarify what counts as unnecessary or wasted expense including time spent in preparing for an appeal or the use of consultants to provide technical advice. However, the PPG states that an award of costs cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
4. Whilst costs cannot be claimed relating to the original planning application, behaviour and actions at the time of the planning application can be taken into account in the consideration of the award of costs.
5. The applicant is seeking a full award of costs against Lewes District Council (the Council). The applicant contends the Council has acted unreasonably in procedural and substantive terms. On the procedural grounds, the applicant claims the Council failed not only to determine the planning application within statutory timescales and the agreed extension of time (EoT), but that the Council failed to engage with the applicant over extended periods where no communication was received. Consequently, the applicant claims that the lack of engagement and timeliness resulted in the need to submit an appeal against non-determination, without the benefit of a reasoned decision notice.

6. The applicant also states that the Council introduced new concerns late in the planning application process and requested substantial additional technical evidence all of which created uncertainty.
7. In substantive terms, the applicant considers the Council has acted unreasonably by not determining similar cases in a consistent manner.
8. The applicant claims that a direct result of the Council's unreasonable behaviour is the unnecessary incurrence of avoidable expense in connection with the appeal. This includes the commissioning of additional technical assessments, revised drawings and supporting materials alongside professional time addressing the Council's requests and proactively communicating with the Council. The applicant also claims incurred expense from the preparation and submission of the non-determination appeal and costs application.
9. I note in the Council's rebuttal statement that whilst they acknowledge that the planning application was not determined within the statutory timescale or the EoT, they consider engagement and dialogue was ongoing and that such slippage does not amount to unreasonable behaviour.
10. Turning to the commissioning of additional technical assessment work, I agree with the Council that the request and submission of further plans and assessments were conducted during the planning application process. I cannot identify any evidence of further technical assessment work having been produced and submitted to accompany this appeal. Whilst I found the submitted daylight and sunlight assessments to be helpful in forming my decision on those matters, I am of the opinion the costs associated with this element of the applicant's application fall outside the scope of the costs regime.
11. With regard to whether the Council acted unreasonably in requesting different degrees of information in comparison to another property on South Coast Road, I do not have the particulars of that planning application before me. I have no substantive evidence to show the Council has been inconsistent in its approach to decision making on similar redevelopment proposals that have the same site context as the appeal site. The Council set out in its response to the applicants statement the specific site constraints for the appeal site. Furthermore, the Council was entitled to come to a view in terms of what further assessment work may or may not be required based upon the merits of the proposal.
12. The application was with the Council for almost six months with no decision being made. Whilst I note that there were periods of time where the Council did not communicate with the applicant and that this would have caused frustration with them, I do not consider this to be unreasonable given the Council did provide responses and met with the applicant at least twice prior to the appeal being submitted. I find no evidence of the Council's abject failure to engage with the planning application. Furthermore, the Council have engaged with the appeal process which the costs regime encourages 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 evidence to support their case. I cannot identify an unnecessary and wasted expense of lodging an appeal.

13. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. A full award of costs is therefore not justified.

S F Murphy

INSPECTOR