



Costs Decision

Site visit made on 9 December 2025

by Thea L Davis BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2026

Costs application in relation to Appeal Ref: APP/Y9507/W/25/3367908 Foxgloves, Fernden Lane, Fernhurst, West Sussex GU27 3LA

- 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 Lawrence Deju-Wiseman for a full award of costs against South Downs National Park Authority.
 - The appeal was against the refusal of planning permission for the demolition of existing dwelling and garage, erection of a replacement dwelling and garage, hard and soft landscaping and associated works.
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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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive. Amongst other grounds, a procedural award may be sought on the basis of lack of co-operation with other parties, delay in providing information or other failure to adhere to deadlines, or providing information that is shown to be manifestly inaccurate or untrue.
4. Substantive grounds include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. Such grounds can also include refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
5. The applicant submits that pre-application advice was limited, the conduct and handling of the planning application by the Local Planning Authority (LPA) was unreasonable, the content of the Landscape Report and treatment of further submissions were unreasonable, and as the proposal was refused largely on design grounds, the fact that it was not referred to the Design Review Panel (DRP) was unreasonable. I shall deal with these matters in turn.

Pre-application

6. Prior to the submission of the planning application, the applicant submitted a request for pre-application advice from the LPA. That request set out a different scheme. Therefore, the subsequent advice may be restricted in value because it proposed works to the existing building(s), rather than a replacement dwelling. The LPA asserts that the pre-application advice is not related to this appeal, which is for a completely separate and different proposal. However, it would be illogical to conclude that the advice received would not inform subsequent development proposals of a similar nature.
7. Pre-application activities cannot be wholly excluded from the narrative of the course of the planning application. The way that pre-application advice request was handled (e.g., the time it took, the level of engagement and the subsequent advice) would, in the balance of probability, have affected the subsequent choices made by the applicant. Matters of scale, massing and design would have been considered at pre-application stage. Had more specific detail been provided at this stage about what the LPA considered acceptable design for the site, this could have informed this subsequent planning application. These matters were at the core of the reason for refusal of the planning application.

Handling of the planning application and appeal

8. The LPA is not duty bound to consider amendments per se. However, when an applicant is proactively seeking to engage in the process and sought to respond to advice given at pre-application stage it is good practice to engage and co-operate. For example, when disagreeing with the applicant's assertion that the proposal is landscape-led, the LPA's Statement of Case (SoC) states, 'the design would appear to be rather lacking in detail and character...' but did not seek further detail from the applicant at an appropriate stage to address this concern.
9. The landscape team provided comments about the application which the applicant had concerns about and responded to them. The applicant requested their response to be considered and that the scheme be reviewed by the DRP. However, both requests were rejected. When considering the request for pre-application advice, the LPA requested an extension of time, to which the applicant agreed. Conversely, when the applicant proposed an extension for the planning application to accommodate DRP views, the LPA did not agree. Even if the DRP was unable to consider the scheme, an extension could have been agreed to revise the scheme and return with amended drawings in an attempt to address the LPA's concerns.
10. I am of the view that the LPA refused planning permission on a planning ground capable of being dealt with by conditions as I have concluded that suitable conditions would enable the proposed development to go ahead. However, I appreciate the LPA considered that this was not appropriate. Notwithstanding this, I believe there were flaws in the way the LPA applied its policies and guidance that were too restrictive in this particular instance. This resulted in the overall effect of preserving the existing dwelling, rather than taking into account the potential effects on the landscape, character and purposes of the National Park.
11. The officer's report and appeal documents contain generalised and inaccurate assertions. For example, the existing dwellinghouse on the site is described by the LPA a number of times as 'modest', which is somewhat misleading. Containing

- approximately 12 rooms, the dwellinghouse has a sprawling ground floor and some rooms in the roof above. It also provides a brief summary of the impacts for recreational users of Fernden Lane. However, this does not appear to provide a coherent analysis and is not supported by specific evidence of the effects, i.e., specifying the route or effect that would result for users. Words such as 'excessive' are used in relation to materials but no context is provided and the LPA fails to acknowledge that many of the materials would not be seen from the public realm.
12. The SoC states, 'The rear extension, whilst somewhat subservient against the main part of the house, when looking from the south would appear as a visually dominant, overbearing and incongruous form of development, when viewed from the east and west elevations'. Having visited the site and surrounding area, it is very difficult to see the site from anywhere other than Fernden Lane, and even from there, it is obscured or partially obscured from a number of positions in the lane.
 13. Satisfactory evidence has not been provided as part of the appeal to suggest the LPA advised the applicant about any specific concerns. Within this context, it is not possible to determine whether the LPA would accept, for example, an amended or subsequent scheme that included a lower roof pitch or shorter rear projection. I have not been presented with satisfactory evidence that the LPA had carried out a specific or objective analysis of the development that could result in such specific advice. Evidence to suggest the LPA was willing to co-operate with the applicant in the same way the applicant sought to co-operate has not been provided.
 14. Although the applicant was given the opportunity to withdraw the planning application, the LPA would know the right to appeal exists and in having no control over either itself, would have to assume that either course of action could follow.
 15. In any case, the LPA's approach to the planning application and subsequent appeal is supported by generalised and inaccurate assertions about the proposal's impact, which are unsupported by objective analysis. The description of the direction the impact is experienced from is too general and does not support effective analysis. To this end, there is insufficient evidence to substantiate the reason for refusal.
 16. Overall, I consider this appeal and its associated expense could have been avoided. Had the LPA engaged with the applicant to nearly the same extent during the pre-application stage and the planning application as it has during this appeal, the outcome could have been very different. This could have been particularly helpful in light of the comments from the landscape team and the applicant's reply to them, which was a discourse that could have been material to the outcome of the planning application.
 17. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Other matters

18. The applicant made a number of Freedom of Information requests to the LPA and the bodies providing services on its behalf. Requests for information are covered by different procedures and I will refrain from discussing those.
19. I note the applicant's dissatisfaction with the absence of an officer's report at the time the decision was made. Although I appreciate this may have been frustrating,

there is not the same duty to publish a report on the day of the decision as there is with a Decision Notice. It is not my view that the LPA behaved unreasonably in this respect, although it likely affected the working relationship between the applicant and the LPA.

Costs Order

20. 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 the South Downs National Park Authority shall pay to Mr Lawrence Deju-Wiseman 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.

The applicant is now invited to submit to South Downs National Park Authority, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thea L Davis

INSPECTOR