



Costs Decision

Site visit made on 16 March 2026

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 27 March 2026

Costs application in relation to Appeal Ref: APP/Y3940/W/25/3373619

Unit A, Chelworth Industrial Estate, Cricklade, Swindon, Wiltshire SN6 6HE

- 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 SW Group Logistics for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for the erection of a new warehouse building 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. The applicant claims that the Council acted unreasonably on grounds which I broadly summarise as:
 - 1) not determining similar cases in a consistent manner/ refusing planning permission on a planning ground capable of being dealt with by conditions;
 - 2) 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; and
 - 3) failing to work proactively/engage in discussion with the applicant during the application process.

Ground 1

4. Concern for residential amenity within the context of commercial development is not unreasonable in principle. I have not however been directed to any policy which specifically requires the submission of a noise impact assessment in the circumstances in question. And, though the Council has also referred to guidance it has published on the matter, I have not been provided with any relevant extracts.
5. The applicant's appeal statement otherwise cited 3 other planning applications for commercial development at or adjacent to Chelworth Commercial Area where noise impact assessments were not required by the Council. One of these concerned an adjacent warehouse also operated by the applicant, another a

scheme involving 3 industrial buildings towards the east, and the third involved a 20,000m² (c.215,278ft²) warehouse.

6. Within its appeal statement the Council offered comment only on the other warehouse operated by the applicant. No comment was or has been subsequently offered on the other cases. Whilst it is correct to say that each application must be dealt with on its own merits, the applicant's claim of inconsistency has been only partly contested. In this regard the Council's silence can only lend weight to the applicant's claim.
7. The Commercial Area already hosts a large number of buildings similar to that proposed. Similar operations are already carried out within those occupied by the applicant and the same weekday operating hours were stated on the application form. There is no residential development adjacent to, or even very near to the site. Four of the receptors variously named by the Council otherwise have a much more immediate relationship with and exposure to noise generated by other extant commercial development. Moreover, most of this lies between the site and the receptors in question. Set against these considerations, the Council's assertion that the loading doors of the proposed warehouse would be oriented 'slightly towards' named receptors provides a barely credible justification for adopting a different approach.
8. Though not highlighted by the Council, the application form provided no specific hours of opening on Saturdays. This might have been taken to suggest the potential for activity outside normal operating hours. Even if it was, the matter could, as a whole, have been simply resolved by clarifying the applicant's intentions and then restricting hours of use by condition.
9. The applicant's noise assessment was undertaken on the basis that the same operating hours would indeed be adopted. It furthermore confirmed that the Council's concerns were unfounded. This was given that the predicted rating level 5dB below the representative background levels indicated that at worst the development would give rise to no observed adverse effect. As both the circumstances of the site and its surroundings indicated the strong probability of this outcome, there was little clear necessity for it to be demonstrated.
10. For the above reasons I find that Ground 1 succeeds. It follows that the applicant incurred unnecessary expense in addressing the Council's second reason for refusing planning permission at appeal.

Ground 2

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) states *if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*
12. The proposed development would conflict with locational policies within the development plan. However, in arguing that the development would nonetheless be acceptable the applicant advanced a wide range of material considerations. These included the age of policies, their consistency with national policy, the absence of material harm, and the benefits of the development.

13. As set out in my main decision, locational policies within the now ageing Wiltshire Core Strategy 2015 and Cricklade Neighbourhood Plan 2018 were adopted when the 2012 version of the National Planning Policy Framework (the Framework) was in force. This was however a point that the Council failed to recognise in assessing their consistency with national policy, and most particularly with paragraph 89 of the current version of the Framework. It thus failed to identify significant inconsistencies. The Council additionally failed to address indications within its own Employment Land Review that demand for new employment sites in rural areas was not being met by existing allocations or policies. Consequently, it neither recognised that the policies in question were out of date, nor considered the broader implications of this for decision making.
14. The Council's decision to refuse planning permission on grounds that the location was unacceptable in principle was otherwise taken despite having failed to specifically identify any related real-world harm, or to consider the relevance of its absence.
15. In assessing the scheme, the Council acknowledged its promoted benefits. It indeed positively weighed them against harm to the significance of the adjacent Scheduled Ancient Monument. But having done so it failed to also weigh those benefits against conflicts with locational policies in reaching an overall conclusion. It instead asserted that 'it must be considered that such benefits would have been taken into account' in their formulation.
16. Clearly, a policy which restricts economic development restricts development likely to deliver economic benefits. However, that does not mean that those or any other benefits should therefore be simply dismissed out of hand. More so where the policies in question are out of date, the strategy they seek to deliver is failing, and there is ultimately no identified harm against which to weigh those benefits.
17. I acknowledge that the Council attached the appeal decision relating to 'Land off Braydon Road' to its response to the applicant's costs claim. However, in doing so, it provided no explanation of its relevance. Nor, when given the opportunity, did it respond to a request to provide comments. Having nonetheless taken it into account, it did not in any case provide a basis to dismiss the current appeal or excuse any of the Council's failings outlined above.
18. All the considerations advanced by the applicant were therefore legitimate, and the Council's failure to properly take them into account was unreasonable. More than this, given its apparently conscious failure to explicitly carry out a planning balance in reaching its decision to refuse planning permission, the Council's decision was fundamentally flawed.
19. For the above reasons, and taking into account both my findings in relation to Ground 1 and within my main Decision, Ground 2 succeeds. It follows that as the appeal could have been avoided all the costs incurred by the applicant in pursuing it were wasted.

Ground 3

20. As noted by the PPG, all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account.

21. The Council disputes the applicant's claim that it failed to work proactively/engage in discussion during the application process. However, it has not provided any evidence to the contrary. Indeed, it simply states that it determined the application and that its objection could not be overcome through negotiation or revisions to the proposal. Whilst the submissions contain some evidence of correspondence between the parties, in light of consideration of Grounds 1 and 2, the Council's rather cursory response again lends weight to the applicant's claim.
22. Had the Council adopted a more positive approach in engaging with the applicant a different outcome may well have resulted. In this regard the Council's failure formed part of a pattern of unreasonable behaviour also established through my consideration of Grounds 1 and 2.
23. For the above reasons Ground 3 succeeds. Though not determinative in itself, this lends additional weight to my findings in relation to Grounds 1 and 2 above.

Conclusion

24. For the reasons given above, I conclude that unreasonable behaviour resulting in both unnecessary and wasted expense has occurred and that a full award of costs is therefore warranted.

COSTS ORDER

25. 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 Wiltshire Council shall pay to SW Group Logistics, 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 Wiltshire 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.

Benjamin Webb

INSPECTOR