



Costs Decisions

Hearing Held on 31 March 2026

Site visit made on 31 March 2026

by R Catchpole BSc (hons) PhD CEcol MCIEEM IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 April 2026

Application A: Costs Application in Relation to Appeal Ref: APP/M3645/W/25/3371917 at Lingfield House, East Grinstead Road, Lingfield, Surrey RH7 6ES

- 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 Mr Dan Webber (Marrow Wood (Lingfield) Limited) for a full or partial award of costs against Tandridge District Council.
 - The Hearing was in connection with an appeal associated with the refusal of planning permission.
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Application B: Costs Application in Relation to Appeal Ref: APP/M3645/W/25/3371917 at Lingfield House, East Grinstead Road, Lingfield, Surrey RH7 6ES

- 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 Tandridge District Council for a partial award of costs against Mr Dan Webber (Marrow Wood (Lingfield) Limited).
 - The Hearing was in connection with an appeal associated with the refusal of planning permission.
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Decisions

Application A

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

Application B

2. The application for a partial award of costs is refused.

Reasons

Background

3. Parties in planning appeals are normally expected to pay their own costs. However, the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour can either be procedural, relating to the process of an appeal or substantive, relating to the merits of any issues arising from an appeal.

Application A

4. The applicant believes that the Council acted unreasonably because the balancing exercise, to determine whether very special circumstances existed, was not carried out in a careful, reasonable or professional manner. It asserts that the Council's Statement of Case (SoC) departs from what was agreed in the Statement of Common Ground (SoCG). In particular, the weight that was given to the benefits of

the scheme and matters relating to urban sprawl. In final remarks, it noted that the Council further adjusted its position in relation to the weight to be given to various benefits which it suggests should have negated the need for an appeal had this occurred at an earlier stage.

5. It also highlights inconsistencies in its SoC with the Officer Report (OR) and the Reasons for Refusal in relation to the Green Belt harm arising from the extension of the main building, effect on the natural beauty of the Countryside and the visual impact from specific viewpoints. It observes that the Council's assertion that it would not fit the extra care model, is also unfounded given the adoption of model wording for such facilities in the planning obligation, as set out in my decision. Furthermore, it notes that the characterisation of the proposal as "cynical" is both unprofessional and unwarranted. The applicant also highlights inconsistencies between an appeal policy statement¹, the Council's SoC and the agreed SoCG. In particular, conflict with policy CSP18, the introduction of additional harm to visual amenity and character and the weight to be given to the benefits of the scheme.
6. The applicant also applies for a partial award of costs due to the fact that a previous Hearing that was scheduled to open on the 11 December 2025 had to be postponed because the Council failed to notify the public of the event.
7. Taken together, these perceived failings risk an award of costs on substantive grounds because of the alleged failure of the Council to prevent development that should have clearly been permitted and on procedural grounds because of failing to notify the public of a hearing, where this leads to the need for an adjournment.
8. The Council believes that it provided an exhaustive OR that demonstrated the justification for the refusal of planning permission based on material planning considerations and a balanced assessment. It points out that despite written warnings of the refusal risks in 2022 and 2024, the appellant nevertheless proceeded with a formal application. The Council maintains that it was clear that the scheme would not be supported and that the appeal was the appellant's sole decision. The Council suggests that it was reasonable for it to elaborate its position at appeal and further elucidate issues that were "not previously caught" in the OR. In final remarks, the Council pointed out that it had been fair and reasonable during the Hearing and had not sought to "defend the indefensible".
9. Turning to the postponed Hearing, the Council highlights the fact that alternative dates were previously discussed and that attempts were made to rectify its failure to notify the public through the hand delivery of letters to interested parties. It also observes that the applicant was available on other dates and draws my attention to a series of emails immediately before the Hearing was due to open.
10. The final remarks of the Council clearly acknowledge that its position was not tenable and I found that there was little substance to the Council's case when tested and the balance reweighed. The Council resiled from the contention that 155(a) of the Framework applied and conceded a number of points. This led to increased weight to four different benefits, acceptance of a limited impact on GB purpose as well as acceptance that the visual impacts would be limited to just one receptor. Added to this is the fact that Hearing time was taken up with resolving the inconsistencies between the SoCG and the Council's SoC which was

¹ Lingfield House Appeal Policy Statement, November 2025

unacceptable. It is also clear that the Council introduced new issues that were not consistent with its original reasoning and conclusions of the OR.

11. Whilst the approach at the Hearing is to be commended, the Council nevertheless failed to produce consistent evidence, substantially altered the weight it gave to the benefits and also went against a previous conclusion it reached in relation to effects on visual amenity without the benefit of any technical evidence to support that departure. Furthermore, the need to postpone was based on legal advice that the applicant received relating to the potential prejudice that would have resulted had the Hearing gone ahead. Given the above, I find that the Council acted unreasonably in these respects.
12. The PPG advises that an application for costs will need to clearly demonstrate how any unreasonable behaviour has resulted in unnecessary or wasted expense. In other words, the existence of unreasonable behaviour is not sufficient to justify an award of costs in and of itself. The behaviour must also directly cause another party to incur unnecessary or wasted expense in the appeal process.
13. Whilst the Council's approach to the appeal process was less than satisfactory, the weight to be given to the harms and benefits of a scheme are a matter of professional judgement. Despite the fact that I reached a different conclusion, the Council was entitled to refuse the proposal on the basis of that judgement. The fact that its position changed when subject to scrutiny was the product of the appeal process which functioned as intended.
14. As such, it is clear that the appeal could not have been avoided and that no unnecessary or wasted expense was incurred in relation to these matters. However, this is not the case in relation to the postponed Hearing which was avoidable and unequivocally the responsibility of the Council given the risk of legal challenge had the Hearing gone ahead, despite efforts to the contrary. The applicant would have had the unnecessary and wasted expense of preparing for such an event given that it was postponed at the 11th hour and professional fees would have still been payable. Whilst I note that the Inspector was willing to open the Hearing, it is clear that there were significant risks given the Council failure to notify interested parties in accordance with the statutory deadline.

Conclusion

15. I conclude that whilst the Council acted unreasonably in relation to the matters set out above, this only led to unnecessary and wasted expense insofar as the late postponement is concerned. For this reason and having regard to all other matters raised, a partial award of costs is therefore justified.

Costs Order

16. 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 Tandridge District Council shall pay to Mr Dan Webber (Marrow Wood (Lingfield) Limited), the partial costs of the appeal proceedings described in the heading of this decision.
17. The applicant is now invited to submit to Tandridge 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. In the event that the parties cannot agree on the

amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Application B

18. In final remarks the applicant altered its position in relation to its costs application and made it clear that it only wanted to pursue a partial award of costs in relation to the delay caused to the Hearing. It believes that the appellant acted unreasonably because of the additional work the Council had to undertake to resolve matters and that a procedural award is justified.
19. The appellant believes that the Council has failed to explain how it has been unreasonable in pursuing its statutory right of appeal. It also believes that it has acted reasonably throughout the appeal process and that the application is retaliatory and should be rejected on that basis.
20. I find it hard to identify any substantive or procedural grounds for an award of costs against the appellant. Whilst the decision to postpone the Hearing was clearly the result of the appellant's unwillingness to proceed, this was prompted by an unequivocal procedural failure on the part of the Council. I find it entirely reasonable that the appellant chose not to proceed under the circumstances. The fact that the lack of notification was only discovered at a very late stage is the fault of the Council and any additional work relating to such matters was clearly necessary.

Conclusion

21. I conclude that the appellant acted reasonably on the matters set out above and that this did not lead to any unnecessary or wasted expense. For this reason and having regard to all other matters raised, a partial award of costs is therefore not justified.

R Catchpole

INSPECTOR