



Costs Decision

Hearing held on 24 March 2026

Site visit made on 24 March 2026

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2026

Costs application in relation to Appeal Ref: APP/E0345/W/25/3376563

Trinity Hall, South Street, Reading RG1 4QU

- 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 Hardeep Hans (Hanslink Ltd) for a full award of costs against Reading Borough Council.
 - The appeal was against the refusal of planning permission for change of use of existing building and extensions to provide 18 apartments.
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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 (the 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 application contends that the Council acted unreasonably through:
 - a) a lack of co-operation during the pre-application and application processes;
 - b) ignoring professional advice regarding viability, and pursuing a financial contribution towards affordable housing that could not be justified;
 - c) failing to carry out a proper balancing exercise relating to the public benefits of the proposal.
4. It is contended that, if the Council had worked positively and proactively with the applicant in agreeing an affordable housing position, permission would have been granted, and the entire appeal could have been avoided.
5. In relation to the first issue, the PPG makes it clear that costs cannot be claimed for the period during the determination of the planning application¹. However, 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 in my consideration of whether or not costs should be awarded.

¹ Paragraph: 033 Reference ID: 16-033-20140306

6. The provision of pre-application advice is not a statutory requirement. The evidence indicates, however, that the Council has acknowledged, via its complaints procedure, that it failed to provide a high-quality service in that regard. Indeed, it appears that it failed to provide any advice at all. However, that would only be material to my decision on the application if I were persuaded that the provision of pre-application advice could have avoided the need for the appeal.
7. In this case, however, it is evident that, although no pre-application advice was provided, concerns regarding the design of the proposal were raised at the application stage, and the applicant was allowed to submit revised plans to seek to address the issues raised. Furthermore, following the Council's refusal of the application, further revised plans were submitted with the appeal, seeking to overcome remaining concerns. The Council considered these amendments in its statement of case, and at the Hearing, and maintained its reason for refusal. Consequently, although there was a demonstrable lack of engagement at pre-application stage, the applicant has had the opportunity to react to the Council's objections to the scheme, albeit unsuccessfully. The evidence does not therefore indicate that the Council's concerns on this matter could have been avoided through pre-application engagement, so the appeal could not have been avoided.
8. The applicant refers to a costs decision² where an Inspector concluded that lack of engagement at pre-application stage was unreasonable behaviour that justified the award of costs. I have not been provided with any details of the proposal, or the evidence that the Inspector had before him. I note, however, that the Inspector said that the provision of pre-application advice would have provided the applicant with the opportunity to amend the scheme as necessary. In this case, the applicant has had that opportunity, albeit at the application and appeal stage, rather than through pre-application discussions.
9. On the second issue, the applicant submitted a Financial Viability Appraisal (the FVA) with the application, which concluded that the scheme would produce a deficit in excess of £800,000, even without the inclusion of any affordable housing. Understandably, the Council sought an independent review of the FVA to evaluate its veracity. The Council's independent adviser assessed the inputs and outputs of the FVA and concluded, likewise, that the scheme could not support an affordable housing contribution.
10. During consideration of the application the Council sought to negotiate a reduced contribution with the applicant. This may have been understandable, in the light of the Borough's acute need for additional affordable housing, but the applicant had already demonstrated through a verified open book approach that the scheme would produce a considerable deficit without any affordable housing provision. Despite this, the applicant did make a range of offers, including a late-stage review clause (LSR), or a range of financial contributions, none of which were accepted. Ultimately, the Council refused the application, with one of the reasons being the failure to make adequate provision for affordable housing.
11. The applicant submitted a draft Unilateral Undertaking (the UU) with the appeal, which would secure £100,000 towards affordable housing and a LSR. However, the applicant's case clearly set out that it considered these obligations to be non-compliant with Regulation 122 of the Community Infrastructure Levy Regulations

² Appeal reference: APP/C3620/W/22/3313897

2010 (the CIL Regs), as they were not necessary to make the development acceptable in planning terms. The Council's position at the Hearing was that the obligations in the UU overcame their concerns on the issue. Nevertheless, it remained incumbent on the Council to demonstrate that, despite the conclusions of the FVA and the independent review, the obligations were necessary and reasonable. Whilst the Council was not bound to accept the independent professional advice of its consultant, it should have provided evidence to explain why it did not. No such evidence was provided in the Council's statement of case, and it was accepted at the Hearing that the scheme was not viable.

12. The PPG advises that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal. In this case, the Council did not provide any substantive evidence to demonstrate why it did not accept the expert independent advice of its consultant. I agreed in my decision that the LSR met the tests set out in the CIL Regs, but this had already been offered at the application stage. The reason for refusal could, therefore, have been avoided, so the applicant has been put to unnecessary expense in contesting it.
13. Under the third issue, it is contended that, had a proper balancing of the public benefits been carried out, planning permission would have been granted, so the entire appeal would have been unnecessary. However, the delegated report contains a section headed "Overall Planning Balance and Conclusion", which extends to almost four pages. Whilst the benefits are not ascribed any particular level of weight, there is a clear balancing of considerations in accordance with the approach in paragraph 11d) of the National Planning Policy Framework. I see no unreasonable behaviour on the part of the Council in this respect.
14. Nevertheless, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's failure to substantiate its second reason for refusal. A partial award of costs is therefore warranted.

Costs Order

15. 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 Reading Borough Council shall pay to Mr Hardeep Hans (Hanslink Ltd), the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting reason for refusal numbered 2 on the decision notice; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Reading Borough 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.

Nick Davies

INSPECTOR