
Costs Decision

Hearing held on 6 and 7 May 2026

Site visit made on 7 May 2026

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2026

Costs application in relation to Appeal Ref: APP/H1840/W/25/3373051 Land North of B4082, Upton Snodsbury (394607, 254133)

- 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 Kingacre Estates Limited for a partial award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for up to 63 dwellings with open space, green infrastructure and surface water drainage system. All matters of layout, scale, appearance and landscape will be reserved for future determination.
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Decision

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

The submissions

2. The costs application was submitted in writing by Kingacre Estates Limited. Wychavon District Council's response was also made in writing.

Reasons

3. 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.
4. The applicant submits that the Council, by submitting evidence outside of the agreed timeline has acted unreasonably and that this has led to wasted expense for the applicant in their consideration of the request and evidence.
5. During the associated appeal the Council adopted the South Worcestershire Development Plan Review (the SWDPR). In response to this the main parties were given the opportunity to comment on whether the adoption affected their case and, if so, how. The main parties were then also asked to provide an amended statement of common ground. I am content that prior to the hearing both parties had access to all submissions stemming from this. I also find that the Council had sufficient time to consider the applicant's submissions for the purposes of agreeing the statement of common ground and for the hearing itself. No concerns were raised by the Council at this point.
6. However, during the hearing it became clear that the Council were not fully abreast of the applicant's response to the adoption of the SWDPR, particularly regarding the appendices. During the hearing, the Council also requested to submit four

planning permissions in support of their housing supply position. When asked to justify this submission in writing, the Council instead provided a significantly larger set of evidence and associated justification for its submission.

7. As a result of the Council's requests to make these submissions the applicant was twice required to consider the late evidence and then respond with whether they considered it should be accepted. I recognise that the question as to whether a five-year housing land supply could be demonstrated was a central point of disagreement between the parties. I also appreciate the Council desired to provide me with the most up-to-date information available to them. However, opportunities were given for the Council to submit this information in response to the SWDPR and to further discuss this through the statement of common ground. The Council have not sufficiently justified why this information could not have been provided within the agreed timeline.
8. As a result of the above, the applicant would have not only had to consider the submissions made in response to the adoption of the SWDPR and discuss the statement of common ground, which was to be expected and was necessary, but also then consider and respond to the request to submit two different sets of late evidence. I find this would have created additional work above and beyond that which would have occurred had the Council submitted its evidence within the agreed timelines. This would have been compounded by the Council's change in tack in the late stages of the hearing. The Council have submitted that, in all other respects, they followed the procedure and timelines of the appeal process. While this may be so, it does not preclude me from finding unreasonable behaviour resulting in unnecessary or wasted expense.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the professional fees associated with the work in consideration of, and response to, the Council's late submission of substantial documents and a partial award of costs is therefore warranted.

Costs Order

10. 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 Wychavon District Council shall pay to Kingacre Estates Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the consideration of, and response to, the noted late submissions; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Wychavon 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.

Samuel Watson

INSPECTOR