
Costs Decision

Hearing held on 29 April 2026

Site visit made on 30 April 2026

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2026

Costs application in relation to Appeal Ref: APP/C1435/W/25/3376903

Land East of Golden Jubilee Way, Westham

- 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 Nigel Hobbs for a full award of costs against Wealden District Council.
 - The appeal was against the refusal of planning permission for outline planning application proposing the development of land at Golden Jubilee Way for the erection of up to 250 dwellings with creation of new roundabout access on Golden Jubilee Way and new pedestrian and cycle linkages.
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Decision

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

Submissions

2. The costs application was submitted in writing prior to the hearing. It was agreed further submissions would be made in writing after the hearing.

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 requirements for notifying interested parties of hearing arrangements are long standing and well understood. I appreciate the scheduling of two hearings at the same time would likely have posed logistical challenges for the Council. However, there was no correspondence from the Council indicating that this could, or was, causing difficulties. It was only when asked for information about the hearing location, 15 days prior to the date, that the Planning Inspectorate was first made aware of this concern.
5. This correspondence was clear that the venue would not be confirmed until well the date for notifying parties had passed. It is not acceptable to send provisional arrangements so close to the hearing date. This was unreasonable behaviour on the part of the Council and so led to wasted expense on the part of the appellant.
6. The first reason for refusal set out related to insufficient assessment of coastal and fluvial flooding and that future climate change scenarios without defences had not been addressed. At the hearing, it became clear that it was the residual risk of flooding that was the Council's concern. This was that in the absence of any breach

- modelling of the coastal defences, the residual risk to the development should be assessed on the basis of the undefended scenario.
7. The PPG provides advice on assessing the residual risks of flooding. It provides examples of the types of residual risks to be considered, but these are examples. It is not a prescriptive list of considerations to be addressed. The Environment Agency (EA) originally objected to the proposal on a range of grounds. However, it withdrew its objection following the submission of a revised flood risk assessment (FRA). That revised FRA did include assessment of residual risks, but not the residual risk from a breach of the coastal defences.
 8. The Council is not bound by the advice of consultees, even acknowledged specialists like the EA. However, local planning authorities must give cogent reasons for their decisions. The Council confirmed at the hearing it had not discussed this matter with the EA prior to refusing the application to understand why they did not consider a breach of the coastal defences to be a residual risk that should be assessed. There was no substantive explanation as to why it would be necessary to assess the residual risk from a failure of the coastal defences when the assessed residual risks were clearly articulated in the FRA and the statutory consultee had raised no objection. This amounts to a failure to substantiate the reason for refusal and one which put the appellant to wasted expense in addressing it in the appeal process.
 9. The Council withdrew its reason for refusal with respect to the sequential test early in the appeal process. This was in response to a review of the case in light of the applicant's appeal submissions. Ongoing case management is encouraged and I therefore find this was not unreasonable behaviour.
 10. The applicant has made a full application for costs. This would include the costs incurred in preparation of the legal agreement. It was not unreasonable of the Council to not progress legal agreements for applications it intends to refuse. Equally, it is also not unreasonable to include the lack of a legal agreement as a reason for refusal to ensure it is a matter properly considered as part of any appeal. I note the applicant has not alleged any unreasonable behaviour in this respect. However, as it is a full application for an award of costs, it is necessary for me to confirm that the Council has not behaved unreasonably in this respect.
 11. I have been directed to a number of decisions from the Courts and other appeal decisions. However, the facts of this appeal are specific to this case, and other decisions would not alter my assessment of this application.
 12. I therefore conclude that a partial award of costs has been justified.

Costs Order

13. 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 Wealden District Council shall pay to Mr Nigel Hobbs, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the postponement of the hearing and the assessment of residual flood risk; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Wealden 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.

Jennifer Wallace

INSPECTOR