Planning Inspectorate

Costs Decision

Hearing held on 2 December 2025

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2025

Costs application in relation to Appeal Ref: APP/Z3825/W/25/3372733
Oakhurst Centre, West Chiltington Lane, Coneyhurst RH14 9DN

- 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 Phil Rowe for a full award of costs against Horsham District Council.
- The appeal was against the refusal of the Council to grant planning permission for settled gypsy accommodation site comprising 10no pitches and associated utility buildings.

Decision

1. The application for an award of costs is refused.

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. During the hearing the applicant confirmed that he was seeking a partial award of costs. However, the application before me is not specific on that point. Therefore, I have treated the application as seeking a full award of costs, but I have had regard to my discretion to allow a partial award of costs if justified.

4. The planning application for the appeal development was not determined within the statutory decision-making timescale. The applicant considers it should not have taken 18 months to be determined and the delay was unreasonable. The PPG[1] states that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation.

5. However, the evidence before me shows that the appeal planning application was determined within the timescale agreed between the Council and the applicant. A number of extensions of time were agreed between them, seemingly to allow additional time in order to seek to resolve various issues that arose through the assessment period, including for several new or revised documents to be submitted for consideration in that regard.

6. Consequently, although the timescale for determining the application stretched over an extended period it was mutually agreed and reflected a willingness to cooperate and to seek to resolve objections. Therefore, I find no basis on the evidence before me that the Council's actions in that regard caused an unreasonable delay in the determination of the planning application.

[1] Paragraph: 048 Reference ID: 16-048-20140306

7. The applicant appears to infer that the refusal reasons have not been adequately substantiated at appeal. They refer to the PPG as advising that a failure to produce evidence to substantiate each reason for refusal on appeal is amongst the types of behaviour that may give rise to a substantive award of costs against a local planning authority. However, they have provided nothing of substance in the way of reasoning to support that assertion or the nature of any expense they consider was unnecessary or wasted.

8. In respect of flood risk, I am satisfied that the Council adequately substantiated its refusal reasons through its written evidence and participation at the appeal hearing. It provided sufficient evidence and analysis to adequately substantiate why the effects of flood risk to and from the development would be unacceptable, with reference to the availability of sequentially preferable sites. In so doing it took account of the applicant's Flood Risk Assessment and the advice from the Lead Local Flood Authority and its own Drainage Officer. It assessed the proposal against the relevant provisions of the development plan and material considerations, including the National Planning Policy Framework and the PPG in respect of flood risk.

9. It is relevant that in my main decision I found the applicant's submitted Flood Risk Assessment (FRA) to have failed to clearly demonstrate that occupiers and users of the development would remain safe from current and future surface water flooding, and without increasing flood risk elsewhere. Therefore, this is not a case where development which should clearly have been permitted was prevented.

10. As the applicant's FRA and Statement of Case both refer to the exception test as being satisfied, it is understandable why the Council considered it relevant to the appeal development. Whilst I have found that the exception test is not applicable in this instance, the requirement for development to be 'safe' in respect of flood risk is common to local and national policies, including the PPG[2]. Therefore, it had to be addressed by the applicant in any event, and I am satisfied that they were not put to any wasted expense in doing so.

11. The Case Officer's delegated report had specific regard to the email from a Council Planning Officer, contained in Appendix C of the applicant's FRA, regarding the non-availability of suitable alternative sites capable of hosting 12 permanent gypsy pitches in the wider Billingshurst area. The Council was not bound by that Officer's advice and the delegated report gives adequate reasons for departing from it. As such, the Council's behaviour was not unreasonable in that regard.

12. In respect of refusal reason 2, the Council adequately substantiated the harm that could be caused to Great Crested Newt (GCN) species by the proposed development, with reference to its District Level Licensing (DLL) scheme. Payment of the DLL scheme contribution was subsequently made prior to the hearing opening and therefore it was reasonable for the Council to withdraw that refusal reason as part of the ongoing review of its case.

13. There is no evidence that the Council concealed or unreasonably failed to inform the applicant during or after determination of the planning application that the second refusal reason would fall away on receipt of payment to gain access to the DLL scheme. This is shown by email correspondence between the applicant and Council Officers, including an email to the Case Officer from the applicant, dated

[2] Paragraph: 027 Reference ID: 7-027-20220825

before determination of the planning application, confirming that he would arrange access to the DLL scheme. The applicant's intention to do so was subsequently recorded in the Case Officer's delegated report.

14. Decisions on costs applications are determined on their own merits having regard to the specific circumstances of each case and the evidence before the determining Inspector. The allowed costs decisions[3,4] that are before me appeared to turn on their own merits and the specific unreasonable behaviours that were demonstrated by the evidence put before those Inspectors. They included failures to defend reasons for refusal, properly assess Green Belt exceptions, correctly identify a fall-back position and the identification of a site as being within a Special Protection Area when it was not. None are comparable to the case before me and they have little relevance to my consideration of this application, and they do not alter my conclusion on the reasonableness of the Council's behaviour in this instance.

15. For the reasons given above unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

G Sylvester

INSPECTOR

[3] APP/M3645/W/25/3358511
[4] APP/M3645/W/25/3360870