Planning Inspectorate

Costs Decision

Site visit made on 27 February 2026

by John Felgate BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2026

Costs application in relation to Appeal Ref: 6001790
Montgomery Waters site, Shrewsbury Road, Church Stretton SY6 6HD

- 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 Shropshire Council, for a full award of costs against Montgomery Waters Limited.
- The appeal was against the refusal of planning permission for a development described as the erection of a warehouse building and associated car parking.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may be awarded only 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.

Events leading up to the Council's decision on the appeal application

3. The appellants MWL made an initial application in March 2024, for outline permission for a warehouse and lorry park (24/000965/OUT). The building then proposed was to be in the same location as the subsequent appeal application, and the lorry park was to be on additional land, on the opposite side of Shrewsbury Road. That application was refused in May 2024, on five grounds. Refusal reason 1 (RR1) of that decision, relating to impact on the character of the National Landscape, was worded to relate only to the lorry park. The other four reasons related to residential amenity, highway safety, groundwater protection, and impact on the Conservation Area (CA). These reasons were briefly stated. The decision was not accompanied by any officer report.

4. The application which later became the subject of the present appeal was made in March 2025 (25/00946/FUL). The application sought full permission, and differed from the previous scheme, by deleting the lorry park, and instead proposing a turning area accessed off the existing private road. The new scheme also showed a smaller footprint for the new building, separated from the existing works except for a connecting corridor. The application was accompanied at the time of submission by various reports and surveys, including a planning statement, ecological and BNG report, tree survey, and heritage statement. These were supplemented during the course of the application by a flood risk assessment (FRA), and an addendum to the heritage statement.

5. This second application was not preceded by any formal request for pre-application advice, nor was a planning performance agreement entered into. But only a little over 9 months had elapsed since the Council had issued their decision on 24/000965/OUT. The second application introduced no new elements, except the turning area, and no other substantive changes. It was therefore understandable that the appellants should have felt able to rely on the earlier decision to identify the likely issues. In the absence of an officer report, the appellants were unable to know the Council's full view on any other matters, such as how the Council viewed the proposal in relation to the SCS's policies on economic development. But RR2 had expressly stated that the principle of extending the existing building was acceptable. In these circumstances, the appellants' decision not to engage in any further pre-application processes was reasonable.

6. In the light of the refusal reasons for 24/000965/OUT, it might have been expected that application 25/00946/FUL would have included some form of statement on traffic and highway matters. However, the lack of that information does not appear to have caused the Council any difficulty, as highway safety was not included amongst the reasons for refusal of the second application.

7. It would also have been preferable if the second application had included an assessment of the effects on the groundwater protection zone. However, this was very much a specialist field. The previous refusal reason, RR4, gave very little information as to the nature of the Council's concerns. It made no mention of issues relating to pollution risks, or regarding foul and surface water drainage, or the diversion of the culvert. Nor did it identify Policy CS18, which was more relevant to these issues than CS17. In the absence of an officer report or any other information, it could not be assumed that the applicant, even one such as MWL who might be likely to have some knowledge of water-related matters, would be aware of the precise nature of the issues alluded to. In the event, the appellants' FRA touched on matters relating to groundwater flooding, and although this turned out to be only tangential to the real issue, this was not an unreasonable response in the circumstances.

8. In no other respect does the content of application 25/00946/FUL appear to me to have been deficient. Having regard to the Council's previous decision, the appellants were entitled to think that the effect on the National Landscape would not be an issue for their revised proposal. It was therefore reasonable of them not to commission a detailed landscape and visual impact study. Nor had the appellants been given any previous indication that noise as such would be seen as an issue, and thus they had no obvious reason to produce evidence on this. In any event, it does not appear that any further evidence on these matters was sought as a requirement for validation. Nor does it appear that the appellants refused any such requests. In all these respects therefore, the appellants acted reasonably.

9. The appellants evidently disputed the amount of the application fee, but this was based on a disagreement over measurements. This was not unreasonable, and in any event clearly had no effect on the Council's costs or resources at the appeal stage.

10. Later the appellants submitted various other items of additional and updated information. The Council complains that some of these were not requested, but the Council was under no obligation to accept new material. As far as I can tell, the additional material in this case was relevant to the issues being discussed and

consulted on, and was directed at clarifying details and narrowing the scope for disagreement. This seems to me to have been in line with what is generally accepted as good practice. None of the new material significantly altered the proposal itself. The submission of new or updated information may have resulted in the authority having to reconsult or undertake further assessments, but work of that kind is part and parcel of the process of dealing with an application. There is no evidence that any of the appellants' additional submissions at the application stage had any effect on the amount of work that the Council needed to do for the subsequent appeal.

11. At some stage in this process, it appears that the Council asked for a Section 106 agreement on BNG monitoring costs, and this was resisted by the appellants. However, planning obligations cannot be imposed, and the appellants were entitled to choose whether they wished to enter into such an agreement, and if so, on what terms. In this case, for the reasons stated in my appeal decision, it seems to me that the appellants' stance at the application stage was justified, not only with regard to the amount being sought, but also the form of the obligation and its timing. But even if I had come to a different view on those matters, the position taken by the appellants was not an unreasonable one.

12. In none of these respects does the appellants' handling of the application appear to me to have been in any way unreasonable. Nor is there any apparent evidence that any failings or other conduct during this stage caused the Council unnecessary or wasted expense in the eventual appeal.

The appeal stage

13. The Council's decision to refuse application 25/00946/FUL was issued in May 2025, and was based on 7 reasons. Of these, four raised new issues that had not been cited in the Council's previous decision; these were RRs 4 (policy), 5 (trees), and 6 and 7 (BNG). Furthermore, the remaining three RRs all expanded upon the scope of the previous reasons: RR1 (groundwater) did this by adding reference to drainage matters and the culvert; RR2 (landscape) did so by extending the Council's concern to the new building rather than just the lorry park; and RR3 (residential amenity) by adding an explicit reference to noise.

14. Given the background set out above, it seems unsurprising that the appellant had been unable to anticipate the Council's eventual position on all of these matters, at the time of submitting their second application, or indeed during the course of it. In these circumstances, although it was clear that additional evidence would be needed on some of the matters raised, to respond to the refusal reasons in the second application, it was not unreasonable of the appellants to proceed with an appeal.

15. As part of their appeal submission, the appellants produced three new reports and two updated versions of material already submitted. The new reports included a hydrogeological risk assessment, and an outline drainage strategy, which were instrumental in helping RR1 to be overcome, and a noise impact assessment which proved useful in limiting the scope of the noise element of RR2. None of this additional material sought to evolve the scheme or alter the nature of the development itself in any significant way. It is true that these three reports did seek to remedy what came to be recognised as gaps in the original application, but those gaps were ones that only became evident following the Council's decision. And

part of the responsibility for that situation must be borne by the Council itself, firstly for failing to produce an officer's report on the original application, and secondly for shifting its position between the first and second applications. I appreciate that the submission of new material involved some extra work on consultations and assessments, but that alone does not make the submission of that material unreasonable. Deferring that work until a possible third application would not have avoided the need for it to be done eventually, and could have risked delaying or deterring development which might yet have been found acceptable. In the circumstances, the appellants acted reasonably in submitting new information on these matters.

16. The updated reports submitted at the appeal stage were minor revisions to the previously submitted arboricultural and ecological reports. The changes incorporated in these were minor, necessary and helpful to the decision-making process. Their submission at this stage was entirely reasonable.

17. In addition, as part of their appeal, the appellants submitted an executed unilateral undertaking. This reversed the appellants' earlier stated position, but effectively removed two of the Council's RRs as principal matters of contention. The submission of the undertaking would have involved a small amount of work for the Council at the appeal stage, but the amount of work would have been the same regardless of what stage in the application or appeal process the submission was made. The submission of the undertaking was reasonable.

18. The appellants proceeded with their appeal despite still not having any specialist landscape impact report. But an assessment of some landscape and townscape related matters was included in the heritage statement and addendum submitted during the application stage. That material was helpful in reaching my decision. And in any event, given the nature of the particular site, it was possible in this case to form a view of the proposed scheme's impact on the landscape, without the benefit of any more detailed evidence. The appellants' submissions did not directly discuss the statutory duty in respect of AONBs, nor the Shropshire Hills Management Plan, but I have the Council's view on those matters, and given my findings regarding the site, the lack of further comment in this regard from the appellant did not prevent me from determining the issue. Nor does it seem likely that the lack of such further evidence could have caused the Council any extra work or expense.

Conclusion

19. My decision on the appeal has gone in favour of the Council, and against the appellants. However, the decision ultimately turned on the issue of the effects on nearby residents and on users of the bridleway through the site. That decision was a matter of judgement, and it was not unreasonable for the appellants to hold a different view, or to pursue an appeal on that point.

20. Although a large number of other matters are raised in the Council's costs application, none of these has any bearing on the matter in hand. Nothing in any of the submissions before me demonstrates unreasonable behaviour on the part of the appellants. The application is therefore refused.

J Felgate

INSPECTOR