



Planning Appeal Costs briefing note

October 2016

Reason for a costs regime

The intention of the costs regime is to ensure that parties act properly and professionally when engaging in the planning appeals process and to encourage amended applications to an LPA where appropriate. In general, all parties meet their own expenses when participating in planning appeals.

Who can be liable and who can apply?

LPAs, applicants and interested parties who take part in the appeal process are all able to apply for costs and also to have costs awarded against them, in whole or in part.

Costs can be awarded either following an application to the Inspector by one of the parties, or at the requirement of the Inspector.

Costs can be awarded in any format of appeal – written representations, informal hearing or public inquiry.

Reasons for costs to be awarded

If a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, then a costs award may be made. This may be a procedural or a substantive matter – either that a party has not kept to the timetable or provided the required information, or that the merits of the case are unreasonably argued and cannot be considered to be robust.

Costs awards

The Inspector can make a full or a partial award of costs, and the decision will never include an amount, but a reason and thus a basis for calculating the award to be paid. The Inspector has discretion and can take extenuating circumstances into account.

If an award is made, the two parties must agree the amount to be paid and when, and if they cannot reach an agreement then there is a formal arbitration process set out which is administered by the senior court costs office.

Process for seeking costs awards

An application by any of the participating parties needs to be made, explaining what costs are sought and why. This may include the costs of preparing for and attending an appeal and/or the use of consultants to provide technical data. They may relate to preparation ahead of the appeal, or the appeal itself. They must directly relate to the appeal process and participation within it. Sometimes a schedule of costs is included at the end of the application.

Where an appeal is called-in for determination by the Secretary of State, costs awards are much less likely to be sought/made.

There is a specific [form](#) on the Planning Inspectorate website for applying for costs awards and a procedure to follow to make such an application. Essentially, this must be done as early as possible in the appeal process and no later than the final comments deadline in the case of a written representations appeal. It is advisable to apply as soon as it is considered that an application is appropriate, which would ideally be before the start of any hearing or inquiry. The final deadline in such cases is the close of the hearing or inquiry. The party against whom the application is made is given a right of reply, or where the award is initiated by the Inspector, they will be given an opportunity to comment.

Further information

The NPPG appeals section gives clear and helpful advice on this matter and can be accessed at <http://planningguidance.communities.gov.uk/blog/guidance/appeals/>