

APPEAL REF: APP/C1435/W/22/3307820

REPLY TO APPELLANT'S COSTS RESPONSE

ON BEHALF OF

WEALDEN DISTRICT COUNCIL

AND EAST SUSSEX COUNTY COUNCIL

1. Both the District Council and County Council maintain their application for costs as set out in the submissions dated 2 October 2023 and does not repeat the points made there. This reply briefly addresses the points made by the Appellant at paragraphs 6 and 7 of its costs response (dated 4 October 2023) with regards to the position of the County Council.
2. It has been necessary for the application to be made on behalf of both councils because the District Council has not paid the County Council for its participation in the appeal and the County Council has shouldered its own costs.
3. The PPG makes clear that statutory consultees may apply for costs (Ref ID 16-029). The PPG does not contain any special test for the circumstances in which a costs award may be made in favour of a statutory consultee. The ordinary rule applies: costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process (Ref ID 16-030).
4. The Appellant is wrong to rely upon PPG paragraph 056 (costs awards against interested parties) where the paragraph above deals explicitly with statutory consultees.
5. Here the statutory consultee has formed part of the District Council's wider team, engaged with the appellant on all of its highway proposals throughout the appeal and presented all of the highways evidence. If the Inspector agrees that the Appellant's appeal was unreasonable then, just like the District Council the County Council will have incurred wasted expense. Therefore, they should also be awarded their costs.

Victoria Hutton

39 Essex Chambers, 6 October 2023