



Costs Decision

Site visit made on 8 April 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025

Costs application in relation to Appeal Ref: APP/W3520/W/24/3349998 Land South of Barrells Road, Thurston, Suffolk IP31 3GD

- 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 Mid Suffolk District Council for a full award of costs against Dover Farm Developments Ltd.
 - The appeal was against the refusal of planning permission for outline planning application - (access to be considered) erection of 9no. self-build dwellings without complying with a condition attached to planning permission Ref DC/19/05114.
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Decision

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

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. The application for costs relates to substantive matters and the applicant alleges that the appellant behaved unreasonably by making and pursuing an appeal that had no reasonable prospect of success. It is also suggested that regard was not had to a previous enforcement appeal in relation to the appeal site and the non-compliance with approved plans in relation to the provision of a footpath.
4. The appellant suggests that they had not ignored the enforcement appeal, however there is no reference to it in the extensive site history provided in their submissions. It is also regrettable that their case largely relied on several of the matters that were the basis of the enforcement appeal, including the validity of the condition, the history of the site and other nearby permissions, which had not affected the previous Inspectors findings.
5. The previous inspector held that the footpath as shown on the original plan with a link to Barrells Road was necessary to ensure the adequate provision for the safe passage of pedestrians and gave explicit reasoning in relation to this. As set out in my decision, the matters at hand are essentially the same in this appeal as the enforcement appeal. While it was reasonable for the appellant to propose an alternative solution and to seek to regularise the situation on land that is within their ownership, they did not seek to demonstrate nor did I find, that circumstances have materially changed in the intervening period since the previous appeal decision. This includes the extent of the appellant's land ownership.

6. Moreover, and notwithstanding that the use of the shared surface access track would be acceptable, it is not the case that the alternative version of the footpath on the amended plan would secure the same intended outcome of the condition. This is because there is no scheme for a connecting footpath to Barrells Road at the junction with Stoney Lane, rendering the condition imprecise, failing to meet the policy tests set out in the National Planning Policy Framework. As such it is not clear that it would be enforceable in the way the appellant suggests.
7. The PPG sets out that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. An example of unreasonable behaviour given in the PPG is when the appeal follows a recent appeal decision in respect of the same, or a very similar development on the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period. Taking the above into account, this example is analogous to how the appellant has behaved in this case by ignoring the findings of the previous appeal decision and the effect of the upheld enforcement notice. As a result, the appeal had no reasonable prospect of succeeding.

Conclusion

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

9. 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 Dover Farm Developments Ltd shall pay to Mid Suffolk District Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Dover Farm Developments Ltd, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

F Harrison

INSPECTOR