
Costs Decision

Site visit made on 17 June 2025

by Chris Preston BA (Hons) Town and Country Planning, Bachelor of Planning (BPI)

an Inspector appointed by the Secretary of State

Decision date: 8 July 2025

**Costs application in relation to Appeal Refs: APP/J3720/C/24/3356293 & 3356294
Land off Welsh Road, Church End, Priors Hardwick, Southam, Warwickshire,
CV47 7SN**

Decision

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

The Respective Cases

2. The Council's application and the appellants' response were submitted in writing and the contents will be familiar to the parties. Accordingly, the following is a brief summary of the grounds of the costs claim and the response.

The Council's Application

3. The enforcement appeals had no realistic prospect of success. In particular, the appellant behaved unreasonably in seeking to gain permission for an equestrian development which was a different form of development from that attacked by the enforcement notice. If the appellants contended that the development was an equestrian development they should have appealed on ground (b). By making no attempt to justify the development that has actually taken place in the ground (a) appeal they have behaved unreasonably.
4. In the ground (f) appeal the appellant's argument is that demolition of the building is not necessary to remedy the breach of control. The Council considers that argument is severely contradicted by the ground (a) appeal where the appellant seeks permission for an equestrian building.
5. By not submitting a ground (b) appeal the appellant has effectively forfeited the opportunity to consider if there is a fallback position in respect of the 2022 permission for stables and yard. Ground (f) can only consider the unauthorised development alleged in the notice. It is evident in the grounds of appeal that the appellants' ground (f) argument relies upon permission being granted for an alternative equestrian development.
6. For the reasons set out on the Notice, the unauthorised development conflicts with the development plan. The appellants have made no attempt whatsoever to argue the planning merits of the unauthorised development alleged on the enforcement notice. Instead, they have used this enforcement appeal to attempt to gain planning permission for a different development.

7. This had no realistic prospect of success, has delayed the enforcement notice coming into effect and is unreasonable behaviour that led to the Council incurring unnecessary and wasted expense. A full award of costs in respect of grounds (a) and (f) is therefore requested.

The Appellants' Response

8. The appellants have clearly set out why the ground (a) appeal should succeed, including reference to the 2022 permission and an assessment of the alleged harm caused by the building and associated use. Appropriate planning conditions have been put forward.
9. It is a matter for the appellants, not the Council, which grounds of appeal should be submitted and they decided to lodge an appeal on grounds (a), (f) and (g). Just because they have not pleaded a ground (b) appeal does not mean that they forfeit the right to plead on ground (a) that planning permission should be granted.
10. It is the Council that has behaved unreasonably as opposed to the appellants. At every stage they have sought to regularise the development using the planning process available and have not behaved unreasonably. Therefore, there is no behaviour that justifies an award of costs.

Reasons

11. 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.
12. Paragraph 053 ¹of the PPG clarifies 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. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
13. In my view the application is so far wide of the mark in demonstrating unreasonable behaviour that my reasons for not awarding costs can be stated relatively briefly. Setting aside any technical arguments over whether a ground (b) appeal should have been submitted, it is clear that the appellants' grounds of appeal were constructed around an attempt to mitigate the harm identified by the Council, as opposed to any attempt to merely delay the enforcement of planning control, with no real prospect of success.
14. Whilst the Council maintain that requesting permission to use the building for equestrian purposes was completely at odds with the alleged breach in the enforcement notice, the way the notice was framed was not specific in respect of the structure. It simply stated the unauthorised erection of a building. The appellant put forward conditions seeking to regulate how the "building" could be used in future and to secure other measures, such as fencing to segregate the paddock from the residential use adjacent.

¹ Reference ID:16-053-20140306

15. The Council offered no legal reason why such conditions could not be imposed within the scope of the ground (a) appeal but instead sought to focus primarily on technical arguments in respect of whether a ground (b) appeal should have been submitted and whether there was a fall back in respect of the 2022 permission. The result of such conditions, as set out in my associated decision, is that the use of the building can be controlled and the visual impact could be regulated such that there would be very little difference from the stable and yard previously found acceptable by the Council.
16. Enforcement of the planning regime is intended to be proportionate and remedial rather than punitive. Where solutions are available that can make unacceptable development acceptable, in respect of any harm and compliance with the development plan, those options should be considered. Such solutions may often be through ground (a) or ground (f) or a combination of both. The impression from the Council's statements is that the focus was less on looking for solutions and more on justifying complete demolition of the building. Whether that was, in fact, the case is difficult to know but that was my distinct impression from the written evidence submitted.
17. Like many appeals, the ground (a) decision required careful consideration. In the end I was satisfied that conditions could be imposed to regulate the harm arising. However, even if that had not been the case, there would have been nothing unreasonable about the appellants putting forward that course of action. They were simply looking for solutions to the issue in hand. It was not a case where there was no prospect of success.
18. In the absence of any unreasonable behaviour it follows that there are no grounds for an award of costs and I shall refuse the application.

Chris Preston

INSPECTOR