



Costs Decision

Inquiry held on 24 June 2025

Site visit made on 23 June 2024

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2025

Costs application in relation to Appeal Ref: APP/N0410/C/25/3361284

Land at Bellswood Farm, Bellswood Lane, Iver, Buckinghamshire, SL0 0LU

- The application is made under the Town and Country Planning Act 1990 ("the Act"), sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Paul Kelly for a full award of costs against Buckinghamshire Council - South Area (South Bucks).
 - The inquiry was in connection with an appeal against an enforcement notice alleging without planning permission the laying of hardstanding and erection of fencing and gates
-

Decision

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

The Application

2. Parties in planning appeals normally meet their own expenses. However, irrespective of the outcome of an appeal, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably in the appeal process and thereby caused the party applying for costs to incur unnecessary or wasted expense. The PPG lists examples of behaviour whereby an award of costs may be justified on procedural and substantive grounds. The list of examples should not be regarded as exhaustive.
3. The costs application was made in writing and amended orally at the Inquiry, and a brief oral response to it was made by the Council.
4. In summary, the application is made on the basis that the Council's entire case was founded on an unsubstantiated and incorrect assumption that the site was not hard-surfaced (more than 4 years before the notice was issued); that the Council had no evidence to substantiate their assertion it was not formerly hard-surfaced; that they ignored a complaint that the land had been hard-surfaced; and that during the appeal process the Council declined an offer to inspect the site with excavation pits provided.

Reasons

Grounds (c) and (d)

5. Local planning authorities are not required to have irrefutable evidence before issuing an enforcement notice. Section 172(1) of the Act provides that an authority may issue a notice "where it appears to them" that there has been a breach of planning control. For the reasons set out in the related appeal decision the notice

has been upheld, hence there was no unreasonable behaviour in issuing the notice.

6. The Council's reference to "original surface" in their evidence refers to compacted soil¹ and that the notice does not attack that original surface - only the hardstanding that has been laid. The notice was not ambiguous in referring to the laying of hardstanding.
7. The excavations at the appeal site revealed what material was beneath the top surface, but of course that does not provide evidence of *when* it was laid. The Council's case did not change after the inspection on site (including the excavated pits) the day before the Inquiry. Had the Council visited themselves when invited at an earlier date, and given that the appeal on grounds (c) and (d) have failed, it would not have led them to withdrawing the appeal.
8. The applicant refers to a complaint made to the Council alleging hard-surfacing in June 2019 which they ignored. However, the screen-shot of that complaint record in the appellant's evidence² does not refer to "hard-surfacing", it only refers to the "parking of vehicles and the stationing of containers". For the reasons set on in the Appeal Decision the hardstanding was found not to be immune from enforcement action.
9. The claim that the Council failed to provide evidence to substantiate their case is not factually correct, they clearly did so in written and oral submissions. The claim is also somewhat misguided. As set out in detail³ in the related Appeal Decision the onus of providing sufficient evidence to prove that there has not been a breach of planning control, or that any breach is immune from enforcement action (grounds c and d), tested on the balance of probabilities, lies with an appellant. The appellant failed in this regard for the reasons set out in the Appeal Decision.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Thomas Shields

INSPECTOR

¹ See related Appeal Decision paragraph 18, and paragraph 25 and footnote 12

² Appellant Statement of Case, paragraph 6

³ Appeal Decision, paragraph 7