
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, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Buckinghamshire Council against Mr Paul Kelly for a full award of costs.
 - 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
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Decision

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

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 appellant's agent acting on his behalf.
4. In summary, the application argues that the appellant's appeal on grounds (c) and (d) lacked sufficient evidence and were hopeless of success, and thereby unreasonable. Also, it was unreasonable for him not to withdraw the appeal when in receipt of all the Council's written evidence prior to the Inquiry.
5. In response it is argued that the appellant would never have withdrawn the appeal given his knowledge of the site, and that had the Council visited the site when invited by the appellant it would have led to withdrawal of the enforcement notice.

Reasons

Grounds (c) and (d)

6. As set out in the related Appeal Decision the appeals made on grounds (c) and (d) are 'legal' grounds. The PPG reflects earlier Court judgments which have established that the onus of proof in these grounds falls to an appellant with the evidence tested on the balance of probabilities. As such, an appellant is required to provide sufficient evidence in making their case. Also, an appellant's evidence need

not be rejected simply because it is uncorroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.

7. For the reasons set out in detail in the related Appeal Decision I found the appellant's evidence on these matters not to be precise and unambiguous and was manifestly insufficient. Despite the substantial operations he stated took place in 2019 and 2024 not a single piece of documentary evidence was submitted in relation to them. It seems to me inconceivable that there would be absolutely no documentary evidence available at all, for example relating to the employment of contractors, hiring of plant equipment, payments, orders, invoices and the like. However, none was submitted.
8. His evidence was also unconvincing in terms of its reliability; he conceded that the Planning Contravention Notice he returned to the Council was wrong as to the 2018 date stated, and that operations in 2024 occurred 3 months later than he had previously stated. The satellite imagery relied upon did not provide precise and unambiguous evidence of what was on the ground.
9. Faced with the Council's written evidence prior to the Inquiry it should have been obvious to him that the test of the evidence on the balance of probabilities of providing sufficient, precise and unambiguous evidence had no realistic prospect of success. Had he withdrawn the appeal the Inquiry would have been unnecessary and the Council's costs avoided.
10. 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

11. 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 Mr Paul Kelly shall pay to the Buckinghamshire 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.
12. The applicant is now invited to submit to Mr Paul Kelly, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Shields

INSPECTOR