
Costs Decision

Site visit made on 29 July 2025

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

Costs application in relation to Appeal Ref: APP/J1535/W/25/3364015

Barn & Stable adj Upshire Hall, Southend Lane, Essex EN9 3QS

- 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 Mr Alan Barter for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for the conversion of barns and stables for a three-unit C1 (holiday let) use without complying with a condition attached to planning permission Ref EPF/0184/23, dated 21 July 2023.
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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. The PPG states that awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal. This application is made on substantive grounds.
3. Unreasonable behaviour on the part of a Council may include failure to produce evidence to substantiate a reason for refusal, relying on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. It could also include imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework (the Framework).
4. The condition subject to the appeal related to a restriction on the use of the holiday lets as an integral part of the main dwellinghouse, that they cannot be sold, let or occupied as separate units of residential accommodation and a requirement to maintain a register of occupiers.
5. The costs application is made on the basis that the Council has acted unreasonably in refusing planning permission. The applicant suggests that the Council (1) imposed a planning condition that fails to comply with the guidance in the Framework and (2) failed to substantiate all of the reasons cited for imposing the disputed condition on the original permission, introduced additional reasons for imposing the condition when the application to vary the condition was made and failed to take a balanced view on whether the condition complied with the guidance in the PPG and Framework.

6. In relation to (1), as can be seen from my main decision, I do not agree with the Council that Condition 13 is required to make the development acceptable, and therefore reasonable, necessary, relevant to planning and to the development to be permitted. The applicant sought planning permission for three C1 use holiday lets and from the description of development and supporting documentation it was clearly always intended that the holiday lets would be separate units of accommodation to Upshire Hall in a distinctly different use class. The imposition of Condition 13 was therefore not reasonable or necessary.
7. The Council considers that several development plan policies support the imposition of the condition. However, irrespective of the policy approach, due to the nature of the proposed development, the condition as currently worded fails the required tests, and it is unreasonable to impose it. Therefore, I conclude that by imposing a condition that was not wholly necessary or reasonable, the Council's behaviour has been unreasonable in this respect. This has resulted in unnecessary expense given that the application and appeal could've been avoided had the condition never been imposed.
8. In respect of (2), the Council sought to substantiate its approach to imposing the condition referring to the location of the site in the Green Belt, the barn and stables being curtilage listed buildings and the proximity to Upshire Hall resulting in the permanent fragmentation of the curtilage or creation of permanent residential accommodation being undesirable. The reason for the condition and the accompanying officer report to the original permission cite policies and contain separate headings which respectively relate to the approach to development in the context of these key issues.
9. Whilst the Council has sought to expand on these reasons in their most recent officer report¹ relating to the request to vary Condition 13, I do not consider they have introduced new reasons for imposing the condition. I note the case officer sought advice from the Conservation Officer on the proposal; however, irrespective of whether their advice went beyond their area of expertise, this is stated in the Officer Report as the view of the Council. The Council have set out within both officer reports and the appeal statement, the justification for imposing Condition 13 in relation to these three concerns and related the concerns to relevant development plan policies. Nevertheless, as I have found in my main decision, imposing the condition in the first place was irrelevant and unnecessary in the context of permitting a C1 use. Moreover, the Council did not specifically identify harm that would've arisen from the effects of varying the condition as proposed by the appellant. I therefore consider the Council did not validly substantiate its approach to imposing the condition or refusing to vary the condition and therefore also acted unreasonably on this point. Whatever the consequences of this, I have already found above that the appeal could have been avoided.
10. Consequently, unreasonable behaviour resulting in unnecessary 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 Epping Forest District Council shall pay to Mr Alan Barter, the costs of the appeal proceedings described in

¹ Council Ref. EPF/2054/24

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 Epping Forest District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Whitfield

INSPECTOR