



Costs Decision

Site visit made on 5 August 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2025

Costs application in relation to Appeal Ref: APP/Z1510/W/25/3358626

Land opposite Dearsley Farm, Kedington Road, Sturmer, Essex CB9 7XR

- 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 Nick Claydon for a full award of costs against Braintree District Council.
 - The appeal was against the refusal of the Council planning permission for change of use from B* agricultural land under 5ha to B8 open storage (scaffold stored on 4no. wheeled trailers).
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Decision

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

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. Paragraph 049 of the PPG provides examples of types of behaviour which may give rise to a substantive award of costs against a local planning authority, including failure to produce evidence to substantiate each reason for refusal on appeal and not determining similar cases in a consistent manner.
4. The appellant suggests that the Council acted unreasonably through failing to request additional information at validation, or during the 8-week application determination period. The applicant also submits that the Council has been inconsistent in its decision making, referring to the approval of a case they consider to be comparable to the proposal.
5. The evidence indicates that the applicant had engaged in pre-application advice with the Council only a matter of months before the application submission where they were advised of the conflict and the validation requirements, including the need for a Flood Risk Assessment were clearly set out. Correspondence also indicates that the applicant's agent was notified prior to determination of the application of the policy conflict and the absence of information.
6. The Council has provided a detailed assessment of the appeal proposal. In respect of flood risk the Council's concerns are founded on the absence of technical information, as required by the Framework and as set out in the PPG. Biodiversity Net Gain (BNG) is a recent, but mandatory requirement of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). As discussed in my decision, the proposal would not be

exempt from the statutory BNG requirements. Reasons for refusal relating to character and appearance, living conditions, highway safety and whether a suitable location involves exercising planning judgement, and therefore it does not follow that the Council acted unreasonably in its assessment of the proposal.

7. Given the objection in principle to the proposal in respect of its location the Council did not request the additional information referenced in other reasons for refusal as the submission of which would not have overcome this conflict. Whilst this may have been frustrating to the applicant the appeal submission has not been accompanied by this additional information and therefore the applicant has not incurred unnecessary or wasted expense in the appeal process.
8. The applicant considers the Council could have applied conditions. However, as set out in my decision I am not satisfied that matters relating to BNG and noise could be dealt with by condition post decision.
9. The applicant submits that the Council has been inconsistent in its decision making, referring to an approved application elsewhere within the District¹. As set out in my decision, whilst both sites' may be outside of a settlement the cases refer to a different description of development. Based on the information before me I am satisfied that the proposals are materially different.
10. Accordingly, I do not consider that unreasonable behaviour has been demonstrated within the meaning of the PPG on either procedural or substantive grounds. It follows that the applicant was not put to unnecessary or wasted expense in testing the Council's judgement at appeal.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R. Gee

INSPECTOR

¹ Ref 22/01303/FUL