
Costs Decision

Site visit made on 8 September 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 September 2025

Costs application in relation to Appeal Ref: APP/E3335/W/25/3358826 Upper Battleborough Farm, Bristol Road, Brent Knoll, Highbridge, Somerset TA9 4HJ

- 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 Jolly Jumpers Play Zone for a full award of costs against Somerset Council.
 - The appeal was against the refusal of planning permission for construction of indoor play area, café and farm shop with associated parking area.
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Decision

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

Preliminary Matter

2. The costs application submitted by the applicant does not expressly state whether a full or partial award of costs is sought. However, by reason of the information contained within the costs application, I have interpreted the application as being an application for a full award of costs, and I have considered the costs application on that basis.

Reasons

3. 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.
4. The applicant asserts that the Council acted unreasonably by: making an abnormal level of information requests regarding highways information; not properly assessing the highways information submitted by the applicant; failing to consult consultees on the additional information submitted by the applicant; delaying in providing information; failing to undertake a full and fair assessment of the proposal and presenting factual inaccuracies in the Officer Report.
5. The Council requested a full Travel Plan be provided and secured through a Section 106 Agreement. However, as the proposed floor area is below the threshold requiring a full Travel Plan, one is not necessary in this instance. Instead, a 'Measures only Travel Statement' is required. This was only confirmed by the Council after the Council's Decision Notice was issued.
6. In such circumstances, the requirement to provide a Travel Plan and enter a Section 106 Agreement would have incurred unnecessary expense and delay to the applicant. These measures would not be reasonably justified and would go

beyond what was proportionate for the development in question. However, there is no evidence before me that a full Travel Plan or Section 106 Agreement was prepared, so it cannot be reasonably argued that unnecessary expense was incurred as a result.

7. Under PPG, a successful costs claim must demonstrate that the Council's behaviour was not only unreasonable but also directly caused the applicant to incur unnecessary or wasted expense in the appeal process. In this case, while the Council's request for a full Travel Plan was unreasonable, it has not been demonstrated that it caused the applicant to incur unnecessary or wasted expense.
8. Further clarification regarding the proposed hours of operation was justified as the applicant's Transport Statement (1 May 2023) referred to later opening for special events such as Christmas. The request for clarification does not, in itself, demonstrate unreasonable behaviour. It was entirely appropriate for the Council to seek clarification to fully assess the potential impact of a development, particularly in relation to peak traffic periods. There is no evidence that the applicant incurred unnecessary or wasted expense as a direct result of unreasonable conduct.
9. The applicant claims that additional reports were commissioned over and above what was necessary but has not specified which reports this comment relates to. Nonetheless, based on the available evidence, the submitted reports are consistent with the nature, scale and potential impact of the proposed development and align with standard planning practice and relevant policy requirements.
10. While the Highways Authority did not notice at first that a physical island was being proposed, and subsequently requested its inclusion, there is insufficient evidence to demonstrate that this oversight resulted in unnecessary delay or excessive correspondence. This is because the applicant simply corrected the Council on this matter in correspondence relating to wider highway issues. As a result, I am not persuaded the oversight resulted in the applicant incurring wasted expense.
11. A letter dated 12 June 2024, from Historic England to the Council, confirms that they were consulted on the additional information submitted by the applicant. While a response from the National Trust and Historic Buildings and Places to the additional information is not evident, this alone does not demonstrate that consultation did not occur or that the relevant material was disregarded.
12. A letter dated 10 March 2024, from Brent Knoll Parish Council, confirms that they were re-consulted on the application. Based on the evidence before me, it is not clear whether the Council specifically drew the consultees' attention to the updated information submitted by the applicant in relation to ecology, landscape and highways. Notwithstanding this, the Parish Council considered there were no material changes that altered their view of the proposal. There is no onus upon the Council to ensure application drawings are correctly interpreted by consultees. Furthermore, there is no demonstrable evidence that the Council's conduct directly resulted in unnecessary or wasted expense to the applicant.
13. The Historic Environment Service's response dated 9 August 2024, to consultation on the applicant's Heritage Statement (February 2024) was issued only two working days before the Decision Notice. While the Historic Environment Service's response was not shared with the applicant nor made publicly available until 16 August 2024, after the Decision Notice had been issued, it is clear from the nature of the comments provided, that this would not have fundamentally altered the

Council's decision to refuse the application. Moreover, insubstantial evidence has been submitted to demonstrate that the alleged unreasonable behaviour has directly caused the applicant to incur unnecessary or wasted expense in the appeal process.

14. The assertion that the Council 'rushed' its decision and did not undertake a full and fair assessment of the proposal is not supported by the evidence submitted. The Council followed due process, including allowing the opportunity for submission of and consultation on additional information. The Council took into account relevant planning policies, consultation responses, and submitted documentation. The decision was reached through a reasoned and proportionate evaluation of the material planning considerations. The Council's reasons for refusal are suitably supported by the evidence, demonstrating that the decision was both reasonable and justified. There is no evidence that the Council acted irrationally or failed to engage with the planning merits of the case.
15. For a costs claim to be justified, it must be demonstrated that the alleged behaviour was not only unreasonable but also directly resulted in unnecessary or wasted expense. In this case, there is no clear evidence that the Council's assessment process caused the applicant to incur such expense.
16. Contrary to the applicant's claim, the Council's Officer Report correctly confirms that Historic England had 'strong concerns' with the proposal. I also find that the Officer Report accurately summarises the last response provided by the Historic Environment Service to the proposal.
17. The applicant contends that the Council's Officer Report is incorrect in stating 'the area has had a number of serious accidents in the past'. However, the applicant's own review of accident data within their Transport Assessment (dated 1 May 2023) shows that there has been one serious and one fatal accident in the vicinity of the site between the period 2017 to 2021. Therefore, it cannot be reasonably argued that the Officer Report contains inaccurate information.

Conclusion

18. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, the application for an award of costs is refused.

U P Han

INSPECTOR