



Costs Decision

Site visit made on 16 September 2025

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 October 2025

Costs application in relation to Appeal Ref: APP/W4705/W/25/3367228 Land And Buildings South West Of Moorland Grange Farm, Otley Road, Eldwick, West Yorkshire BD16 3LX

- 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 Michael Walton Acrehowe Ltd, for a partial award of costs against City of Bradford Metropolitan District Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for an outline application for residential development of land for 5 dwellings requesting consideration of scale, layout, appearance and landscaping.
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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. The applicant is seeking an award of costs and highlights both procedural and substantive issues. It is alleged that the Council was unwilling to engage in communication or correspondence. The applicant contends the Council also made a number of errors when assessing the application. These included not acknowledging a footpath connection thus concluding that the private car would be the only transport option, conflating whether the proposal was inappropriate development in the Green Belt with the grey belt assessment contained in National Planning Policy Framework (the Framework) paragraph 155 a), referring to Moorland Grange Barn as an agricultural building and not discharging the Public Sector Equality Duty (PSED), imposed by the Equality Act 2010 (EqA) S149(1).
4. There is no evidence that the Council responded to any of the email requests made. However, it is not uncommon for Council's to not engage in further correspondence where they consider the proposal would be contrary to planning policy. The Council seemingly determined the application within the relevant period, and as can be seen from my decision, overall the proposal conflicts with the development plan.
5. The Council's own public rights of way consultee identified *Public Footpath 68 Bingley* on a plan and provided suggestions to ensure uninterrupted and safe use. However, The Council has responded that the submitted information did not detail how or if the footpath would be connected to the development. As access was a

reserved matter, this could have been addressed through the imposition of a separate condition requiring the circulation routes within the site to be submitted for approval. However, given the exact nature and works needed for the footpath link was limited and the plans do not clearly show a connection between the site and the public footpath to make it accessible for all users, the Council was not fundamentally incorrect in that the shown access point does not connect to public footways.

6. Although the above assessment may have had a bearing on whether the proposal would have been inappropriate development in the Green Belt assessment, it will be seen from my Decision Letter that, on the basis of the evidence, I have concluded that the proposal amounts to inappropriate development. The Council's first reason for refusal therefore aligns with my conclusion, albeit for different reasons.
7. However, when assessing grey belt, the Council could have more clearly had regard to the guidance contained within the Framework, including its glossary and the PPG. However, I cannot be certain that they would have arrived at a different conclusion regarding grey belt. Despite numerous appeal examples, the assessment under Framework paragraph 155 criterion a) is essentially a matter of planning judgement.
8. I am not convinced that referring to Moorland Grange Barn as an agricultural building had any final impact on the decision relating to the refusal of the proposal. The Council has had regard to the surrounding context in the round and arrived at its own conclusions. Matters pertaining to the effect on the openness of the Green Belt and character and appearance of the area can be subjective, and they were entitled to consider the evidence and arrive at the view they did.
9. Neither the officer report or the Council's decision notice demonstrate that the Council considered the PSED when determining the application. Whilst it did not see a need for multi-generational homes, its duty is not necessarily to achieve a result; it is a duty to have due regard to the need to achieve the goals contained within s.149 of the EqA. I am not certain the Council discharged its duty in respect of the PSED, this amounts to unreasonable behaviour, as it does weigh in favour of the proposal, and this was not afforded any standing in the Council's planning balance or consideration of very special circumstances.
10. However, although the applicant's subsequent statement of case sought to expand upon the legal implications of the Council not discharging its duty had the permission been granted, the PSED falls to me as the decision maker in the appeal. Furthermore the statement of case did not significantly expand upon the details submitted with the planning application. The reliance on a website document link was to general information on multi-generational homes, and not site specific. Additional discussion on this matter in relation to very special circumstances was also limited.
11. I do note a request that the planning application deadline be extended was not acknowledged or accepted. Given this was submitted very close to the end of the determination period, and there were other grounds for refusing the planning application, then this is not surprising. Furthermore, the basis for extending the deadline was not based on an implemented policy change.

12. The appellant also wrote to the Council on 9 June 2025, seeking to agree a position with over the procedural failures and substantive errors made within the officer report after the application was determined. However, the Council has subsequently briefly addressed them in the costs rebuttal.
13. While a lack of correspondence is unfortunate, I cannot find that the Council's approach has prevented or delayed development which should clearly have been permitted. It is clear to me that the Council would have been very unlikely to have moved from its stance of refusal, particularly as harm had also been found to the character and appearance of the area, the proposal did not provide mitigation for the South Pennine Moors SPA/SAC and Biodiversity enhancements. Therefore, the applicant would have had to formulate the related parts of the case in any event for the proposal to be considered as grey belt, or for very special circumstances to be applied.
14. While the Council have erred and therefore acted unreasonably in its failure to discharge its duty under the PSED, it is clear that the applicant would have had to appeal the proposal in any case.

Conclusion

15. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Williams

INSPECTOR