



## Costs Decision

Hearing held on 23 September 2025

Site visit made on 23 September 2025

**by K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24<sup>th</sup> October 2025**

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### **Costs application in relation to Appeal Ref: APP/C3430/W/25/3366632**

#### **Gailey Lea Farm, Gailey Lea Lane, Gailey, Staffordshire ST19 5PT**

- 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 James Corbett on behalf of Abbey Foods Ltd for a full award of costs against South Staffordshire District Council.
  - The appeal was against the refusal of planning permission for erection of 2 No. poultry houses and associated infrastructure.
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### **Decision**

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

#### **The submissions for Mr Corbett**

2. The costs application was submitted in writing and no additional points were made orally at the hearing.

#### **The response by South Staffordshire Council**

3. The response was made in writing and no additional points were made orally at the hearing.

### **Reasons**

4. Parties in planning appeals normally meet their own expenses. However, 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.
5. In summary, the applicant claims that the Council has acted unreasonably by failing to accept the ammonia thresholds set by the Environment Agency and that the control of emissions is subject to separate pollution control regimes. The applicant also claims that the Council did not fully assess the submitted information relating to the removal of manure and that they withdrew the third reason for refusal. The applicant claims that this has resulted in unnecessary and wasted expense.
6. The Council has taken a different view on these matters on the basis that they assessed the effect of emissions from the proposal on the Ancient Woodland against Paragraph 193(c) of the National Planning Policy Framework (the Framework). Although they confirm that the additional information submitted during the appeal enabled reassessment of the effects of odour on the occupiers of neighbouring properties, they contend that the development would still adversely affect the living conditions of the neighbouring properties by reason of being

overbearing. The Council do, however, accept that they withdrew the third reason for refusal.

7. For the reasons given in my formal decision, I find that the thresholds set by the Environment Agency and the Environmental Permitting Regime do not remove the need to assess whether the development is an acceptable use of land and whether it would result in deterioration of irreplaceable habitat, such as ancient woodlands. Although the Council sought to impose a threshold that is not set out in any adopted policy or supplementary guidance, the Framework sets a lower threshold in relation to Ancient Woodlands than the Environmental Permitting Regime. The Council was, therefore, reasonable in refusing the scheme which would likely result in deterioration of the irreplaceable habitats.
8. The Council has clearly set out why they had concerns about the effect of the development on the living conditions of the occupiers of the neighbouring properties, with regard to the development being overbearing. Even though I do not have the same concerns the Council have not behaved unreasonably in this matter. Moreover, the Council did not have sufficient evidence before them at the time of the decision to come to a conclusion that the effect of odour on living conditions would not be unacceptable, even if they had some information regarding the removal of waste from the site. The applicant had to provide additional information to overcome this reason for refusal and the appeal was, therefore, necessary.
9. The Council has accepted their error in refusing the application on the grounds of Biodiversity Net Gain and confirmed that the information to overcome this matter was available to them before they made a decision. The applicant had to respond to this issue and this has led to unnecessary and wasted expense. For this reason, I conclude that the Council has behaved unreasonably, but only in regard to this single matter.

## **Conclusion**

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the need for the applicant to deal with the issues raised regarding Biodiversity Net Gain and a partial 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 South Staffordshire Council shall pay to Mr James Corbett on behalf of Abbey Foods Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in responding to the third reason for refusal. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to South Staffordshire 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.

*K Townsend*

INSPECTOR