



Costs Decision

Site visit made on 10 June 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 October 2025

Costs application in relation to Appeal Ref: APP/E3335/C/23/3331788

Hyde Egg Farm, Hyde Lane, Bathpool, Taunton, Somerset TA2 8BU

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Lee Hedges for a full award of costs against Somerset Council.
 - The appeal was against an enforcement notice alleging the material change of use of the land to the stationing of two mobile homes for residential use.
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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.
3. The word “unreasonable” is used in its ordinary meaning as established by the courts¹. In the context of an application for an award of costs, unreasonable behaviour may be either procedural - relating to the process, or substantive – relating to the issues arising from the merits of the appeal.
4. The applicant’s case is made on substantive grounds. In particular, the applicant is of the view that the Council acted unreasonably in serving an enforcement notice which was in relation to a use which was clearly lawful, with the Council failing to substantiate its reasons for issuing the notice. The applicant also argues that the Council had not reviewed its case following receipt of the appeal, with particular regard to how the Council failed to defend its position in relation to ground (c).
5. As a starting point, the enforcement notice was poorly drafted. The alleged breach of planning control not only failed to refer to a “material change of use” as defined in section 55(1) of the Town and Country Planning Act 1990 but also failed to specify the alleged unauthorised use of the land. Furthermore, the red line plan attached to the notice encompassed the wider site which included a variety of other buildings which were seemingly unrelated to the use of the mobile homes.
6. The Council’s case in defending the appeal was also unclear and somewhat confusing. In response to the ground (c) appeal the Council acknowledge that planning permission was granted in 2004 for the “*Continued use of land for the siting of a residential mobile home (and ancillary mobile home) for occupation by*

¹ Manchester City Council v SSE & Mercury Communications Limited [1988] JPL 774

Mr and Mrs Hedges only". The Council also acknowledged that the single planning condition attached to that permission, which stated "*This permission shall enure for the benefit of Mr & Mrs Hedges only and not for the benefit of the land*", may be unenforceable.

7. In any event, it should have been clear that in the absence of a planning condition requiring the mobile homes to be removed from the land or their use to cease after a specified time or event, an extant planning permission existed for the siting of two mobile homes for residential use. Although the Council asserts that the current use goes beyond what is allowed by the 2004 approval, it does not provide adequate detail to explain how or why that is the case.
8. Further confusion in respect of the Council's position arises under its response to the ground (d) appeal where it is stated "*the breach of condition attached to the 2004 permission has therefore not exceeded ten years*". The enforcement notice clearly stipulates that it was issued under section 171A(1)(a) of the 1990 Act, and (once corrected) the alleged breach was directed at a material change of use of the land to the stationing of two mobile homes for residential use. If the Council sought to allege a breach of planning control consisting of the failure to comply with any condition or limitation subject to which planning permission has been granted, then the notice should have been served under section 171A(1)(b) of the 1990 Act.
9. In my view, the Council had no reasonable prospect of defending an appeal against the enforcement notice as framed. It also failed to substantiate its reasons for identifying the alleged breach and for issuing the notice. The use of the land which the Council sought to attack was the same use which was granted planning permission in 2004. This directly led to the applicant having to pursue an appeal which could have been avoided. Should the Council have sought to take enforcement action against an alleged failure to comply with the condition attached to the 2004 permission, or against another alleged breach of planning control, then the notice should have been drafted accordingly.
10. Taking all of this into account, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

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 Somerset Council shall pay to Mr Lee Hedges the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Office if not agreed.
12. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

David Jones

INSPECTOR