



Costs Decision

Site visit made on 30 September 2025

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 29th October 2025

Costs application in relation to Appeal Ref: APP/N4205/W/25/3369739

Land to the south of Sunnybank, Prestolee

- 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 Tunde Olasupo of Believe Achieve CIC for a full award of costs against Bolton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the siting of shipping container together with the change of use of land to facilitate a hub for youth community bike rental, repair and training scheme, together with the addition of timber cladding to the exterior of the container, erection of 2 metre weldmesh boundary fencing and associated landscaping, all for a temporary period of two years.
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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, Planning Practice Guidance (PPG)¹ 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 seeks an award of costs against the Council on substantive grounds. The claim centres around the Council's assessment of the proposal's effect on trees. The submitted Arboricultural Impact Assessment (AIA) indicated that the siting of the shipping container and the installation of the fence would not have a harmful effect on existing trees. The Tree and Woodland Manager's response to the planning application consultation advised that the installation of the shipping container would not have caused notable damage to trees and that no further arboricultural input was required. This was on the understanding that the working methods included in the mitigation measures within the AIA and the tree protection plan would be implemented in full. Neither the AIA nor the response from the Tree and Woodland Manager explicitly addressed the effect of the intensification of use of the site by cyclists on trees within or adjacent to the appeal site.
4. The Officer's Report recommended that the planning application be approved subject to conditions. However, the Council's elected members decided to refuse the planning application. The reason for refusal specified that the proposal would be detrimental to the health of protected trees located within and adjacent to the application site. Within its Appeal Statement, the Council has indicated that part of

¹ Planning Practice Guidance, Appeals, Paragraph: 028 Reference ID: 16-028-20140306

- its concern relates to the repeated use of the site by cyclists causing damage to protected trees and woodland.
5. PPG² advises elected members must only take into account material planning considerations and local opposition to a proposal in itself is not a ground for refusing planning permission. Furthermore, the Shadwell Estates Ltd judgment³ is clear that a decision maker should give the views of statutory consultees great or considerable weight and a departure from those views required cogent and compelling reasons.
 6. Although the Tree and Woodland Manager indicated that no further Arboricultural Input was required, there was no evidence before the elected members on the potential effect of the intensification of use of the site by cyclists on protected trees within or adjacent to the appeal site. As such, there was cogent and compelling reasons for the elected members to depart from the statutory consultee's view. Whilst I consider that the potential loss of protected trees within or adjacent to the site could be mitigated through replacement planting, it was reasonable for the Council's elected members to partly recommend refusal on this basis.
 7. The Town and Country Planning Act 1990 is clear that the local planning authority shall have regard to all other material considerations, amongst other matters, when determining a planning application. The onus to have regard to all other material considerations is on the authority as a whole and not statutory consultees as individuals. Therefore, it is not contrary to legislation for the elected members to highlight concerns with the intensification of use of the site, which may not have previously been considered by the Tree and Woodland Manager. In this regard, the Council has not acted unreasonably.
 8. The applicant has also indicated that the Council relied on generalised assertions without objective analysis when refusing permission on the grounds of inappropriate use and harm to character. The Council has substantiated these reasons within its Appeal Statement and therefore not acted unreasonably.
 9. The Council has not failed to produce evidence to substantiate its reasons for refusal; made vague, generalised or inaccurate assertions about a proposal's impact which is unsupported by objective analysis; or, prevented development which should have clearly been permitted.
 10. For the above reasons, I conclude that the Council has not acted unreasonably, and this has not resulted in the applicant incurring unnecessary or wasted expense. Therefore, the application for costs is refused.

J Hobbs

INSPECTOR

² Planning Practice Guidance, Determining a planning application, Paragraph: 016 Reference ID: 21b-016-20140306

³ Shadwell Estates Ltd v Breckland District Council [2013] EWHC 12 (Admin)