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## Costs Decision

Site visit made on 22 October 2025

by **Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

Decision date: 03 November 2025

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### **Costs application in relation to Appeal Ref: APP/Y0435/W/25/3368940**

#### **The Poultry Barn, Brook End, North Crawley, Newport Pagnell, MK16 9HH**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Milton Keynes City Council for a partial award of costs against Mr S Miller.
  - The appeal was against the refusal of planning permission for a change of use from agricultural to dog walking and training facility, site office, ground finishes and boundary fencing.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance 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.

### **The application**

3. The current appeal clearly falls within the scope of the relevant guidance. The appellant has introduced revised highway details, including visibility splays, which respond to a reason for refusal that was foreseeable and should have been addressed through a revised application rather than via appeal. These late amendments have required further consultee involvement and have added complexity to the assessment process. In support of the case, the appellant has stated: *"Visibility splays of at least 2.0 x 130m (a minimum figure of 2.0m may be considered in very lightly-trafficked and low-speed situations, according to Manual for Streets) and 2.4 x 66.6m can be achieved in both directions—please refer to the Visibility Plan included with amended plan ref. 47-24-01 D. Furthermore, visibility splays of over 2.4 x 130m can be achieved in both directions, assuming vehicles are travelling on the correct side of the carriageway."*
4. The appeal process should not be used to retrospectively correct deficiencies in the original submission, particularly where the issues—such as highway safety and visibility—were clearly identified at the application stage. The appellant's decision to submit revised plans at appeal has not only delayed resolution but has also placed an unnecessary burden on consultees and the council as if they were assessing a new proposal. This approach is contrary to the expectations set out in the 'Amendments to Applications Charter' and supports the Council's position in seeking an award of costs

5. Revised drawings ( 47-24-01\_D\_08-07-25 – Proposed Plans) introduce a new line of technical evidence not previously submitted, requiring specialist rebuttal. The additional information submitted goes beyond clarification and comprises *substantive amendments* which, if necessary, should have been the subject of a new planning application.
6. As a result, the council has been required to divert time and public resources to respond to an evolving proposal during the appeal, rather than a clearly defined and fixed scheme considered under the proper statutory application route. The council maintains that the appellant has acted unreasonably by submitting significant new information and alterations during the appeal process, rather than at application stage. This has resulted in wasted expense for the council in commissioning specialist advice and devoting officer time to reassess issues that were avoidable had the proper process been followed. A full award of costs against the appellant is justified<sup>1</sup>.

## Rebuttal

7. This application in relation to “The revised drawing contains additional detail in the form of visibility splay lines at 2.4x66.6m” is strongly resisted. The council's second reason for refusing to this application stated “2) The proposal fails to demonstrate safe access due to the absence of visibility splays or a speed survey”. For this reason, enhanced Visibility Splays were added as part of the appeal. Had the council not stated “due to the absence of visibility splays”, the additional detail would not have been added to the plan. In fact, visibility splays were included on every drawing revision throughout the planning process.
8. It is not true that “the Highway Officer clearly explained the relevant standards and confirmed that a 2.0 x 43m splay was not acceptable” as claimed by the council in its appeal statement paragraph 4.13. At no stage was there any direct contact with the highway officer and no such information was ever passed on to the applicant from the planning officer. To claim costs against the appellant's response to a clear contradiction between the council's reason for refusal is unjustifiable.
9. It needs to be pointed out that the council's highways department responded to the application over 14 weeks after submission - and the council failed to notify the applicant of its response. Had the council described the concerns and requirements (ie specific visibility splays), an enhanced visibility splay drawing could have been provided in a timely manner. In addition, the applicant was unaware that the council had reduced the speed limit to 30mph prior to the appeal being lodged. Manual for Streets states an X distance of 2.4m or a minimum figure of 2.0 m in very lightly-trafficked slow-speed situations. The road is very lightly-trafficked and, with the introduction of a 30mph speed limit, a slow-speed situation, ie a 43 x 2.0m visibility splay (that which has been illustrated throughout the planning process) should be appropriate (although a 66.6x2.4m splay could be achieved as demonstrated on drawing no. 47-24-01\_D).

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<sup>1</sup> The application clearly states at the beginning that it is a partial award that is sought, and the application makes clear that it is the visibility splays element that is at issue. Nevertheless, the closing conclusion of the application (paragraph 4.2) requests a full award of costs.

## Conclusion

10. The relevant, second reason for refusal, is not accurate in stating that visibility splays were absent, since these were shown on the drawing that was submitted with the application. What the drawing submitted with the appeal did was simply to amend these to respond to the refusal reason. From what I am told, the highway authority was late in responding to the consultation on the application, and I cannot see how the appellant's revised plan "delayed resolution but has also placed an unnecessary burden on consultees and the council as if they were assessing a new proposal". The result of the revision could simply have required the authority to withdraw this reason for refusal, if it resolved the matter, or to have continued in support of that refusal reason.
11. Furthermore, had the appellant left the drawing in its original form, and the appeal had failed, that would have left him in the position of submitting a second free revised application which the council would then have had to deal with, without the benefit of a fee.
12. The appellant's action in submitting a revised element of the application plan in the circumstances was not unreasonable. I have not been supplied with the highway authority's consultation response, but have had to rely on the brief mention in the officer's report. Nor have I been supplied with copies of any additional consultation with the highway authority or, if it took place, the response.
13. I have also not been supplied with a copy of the council's document 'Amendments to Applications Charter' which I have found on its website. I have been given no information about the status of this document as a matter of planning policy, but I do note that, at paragraph 3.10 it states "Our Customer Charter states that "we will initiate contact with the agent or applicant if, and when, we consider amendments or further information could address issues arising within a reasonable timescale". This seems to run against the action of the council at application stage in this case.
14. I cannot see that there has been unreasonable behaviour by the applicant, resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, demonstrated. There is no justification for an award of costs in this case.

*Terrence Kemmann-Lane*

INSPECTOR