



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: 12 November 2025

Costs application in relation to Appeal Ref: APP/J1915/W/25/3368411 Quinbury Farm Stables, Hay Street, Braughing, Hertfordshire, SG11 2RE.

- 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 Mr Graham Langley Jones for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for demolition of existing stable block and change of use of the land for the construction of a single dwelling house with associated landscaping and parking.
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Decision

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

Reasons

2. 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.

The application

3. The council have behaved unreasonably having regard to failure to properly apply relevant planning policy, inconsistency with neighbouring planning appeals and other council permissions and errors made in considering the appeal property to be located within the Green Belt and consequently disregarding the tilted balance. The council have further disputed relevant planning policy matters which were agreed at the neighbouring planning appeal.
4. The appellant has received two refusals, the second being the subject of the appeal. The first refusal of application 3/24/1282/FUL dated 4 October 2024 was based on four grounds. The second application addressed these reasons, leaving just the unsustainable development ground for refusal. However, the refusal wording remained identical on the basis of unacceptable access to essential facilities.
5. The appeal application gave the council the opportunity to have proper regard to the Council's own acceptance of a lack of 5-Year housing land supply and the balance required by as paragraph 11(d) of the National Planning Policy Framework (NPPF). In addition, whilst the council acknowledges the Green Belt error, it continued to conclude that the "*tilted balance need not apply*" due to the Green Belt protected area. In addition, the Council still seeks to renege

on the previously agreed position that Policy GBR2(d) does not require a location for any replacement, extension or alteration of a building to be sustainable.

6. PPG - Paragraph: 028 Reference ID: 16-028-20140306 includes *The aim of the costs regime is to: ... • discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.* The appeal application was a resubmission of that the subject of the 2024 refusal. The PPG also states, *“What type of behaviour may give rise to a substantive award against a local planning authority?” “Examples of this include: • preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations ... persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, not determining similar cases in a consistent manner ...”.*
7. The decision in *North Wiltshire v Secretary of State for the Environment* [1993] 65 P&CR 13, explains: *“One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system.”* For this and the above reasons, a full award of costs should be granted.

Rebuttal

8. The Council accepts that the end of the officer report, in the first paragraph of the ‘Planning Balance and Conclusion’ section, erroneously referred to the Green Belt. This was a typographical error and did not need to be within the report. However, this error was immaterial to the decision-making process. Paragraph 11 of the NPPF, was engaged because the Council was unable to demonstrate a five-year supply of housing land. The concluding paragraphs of the officer report confirm that the tilted balance was applied. The report carefully weighed the identified benefits of the scheme against the harm and concluded that they did not indicate that planning permission should be granted.
9. The appellant states that Policy GBR2 of the East Herts District Plan is an “either/or” policy, and that subsection (d) does not contain a sustainability requirement. Policy GBR2 is structured as a list of types of development that may be possible within the Rural Area beyond the Green Belt. The appellant’s interpretation does not recognise the fact that compliance with one criterion of GBR2 does not negate the requirement to consider the wider policy framework of the District Plan, particularly those relating to sustainable development.
10. Policies DSP2 (Presumption in Favour of Sustainable Development) and TRA1 (Sustainable Transport) remain directly relevant to development proposals. These policies align with the overarching objectives of the NPPF, particularly paragraphs 8 and 9, which stress the need to deliver development that is sustainable in economic, social and environmental terms.

11. The council's approach was entirely consistent with previous appeal decisions. In the Plots 1–4 appeal (APP/J1915/W/23/3317491), the Inspector accepted compliance with GBR2(d) at paragraph 21. However, the Inspector nonetheless went on at paragraph 23 to assess sustainability considerations separately. It is therefore considered that the council's approach was not in error, and a consistent approach has been taken when assessing applications.
12. The appellant claims that the Council attempted to confuse matters by referring to conversion fallback. This is not correct. In section 1.9 of its statement of case¹, the council identified a significant material distinction between this appeal and the Plots 1–4 decision. That case benefitted from a fallback position arising from a previously approved barn conversion, which was an important factor in the Inspector's decision to allow the appeal. By contrast, the current proposal does not benefit from any such fallback. The distinction between the current appeal and the appeal for plots 14 was therefore accurate and not unreasonable for the council to raise.
13. Furthermore, the Inspector's explicit findings in the adjacent appeal for plots 1-4, at paragraph 25 were that he/she was 'not therefore persuaded that the appeal site could reasonable be described as being in a sustainable location'. Later at paragraph 27 the Inspector concluded that 'the development strategy and use of sustainable transport are key elements of the Local Plan and accordingly that the proposal would be in conflict with the development plan when read as a whole'. This is highly relevant, as it demonstrates that the Council's assessment of sustainability was consistent with previous appeal findings.
14. Finally, with reference to the Plot 5 appeal decision (APP/J1915/W/23/3331901), the Inspector noted that the Council no longer sought to defend the reason for refusal relating to the isolated and unsustainable location of the site. The appellant argues that the Council acted unreasonably in not applying the same reasoning to the current case. The fact is that Plot 5 had the benefit of an extant planning permission (3/23/2140/FUL) for the conversion of the same barn to residential use. This provided the Inspector with a genuine fallback position that weighed significantly in favour of the scheme. The Council fully acknowledges that it approved the conversion of the barn under that earlier application. However, it is vital to differentiate the nature of that scheme from the current appeal proposal. The previously approved development involved the retention and re-use of an existing rural building in an isolated location, which is supported by paragraph 84 of the NPPF.
15. By contrast, the current proposal does not involve the re-use or conversion of an existing building. It seeks the complete demolition of a stable block and replacement with a new dwelling. This is a fundamental difference. The fallback position that applied to Plot 5 does not exist here, meaning the policy context and planning balance are materially distinct. It is therefore considered that the council was correct in its assessment. The Council's refusal of the current

¹ This is a reference to the council's appeal statement, not part of the consideration of the planning application and cannot be relied on to explain the correct considerations at application stage. The officer's report does not refer to a fallback position.

application was based on site-specific considerations and cannot be said to have been unreasonable. No award of costs is justified.

Conclusion

16. I regard the error in the officer's report referring to the site as being in the Green belt as having a substantial adverse effect on the outcome of the application. The final part of the report is headed 'Planning Balance and Conclusion, within which, in the first paragraph it is stated: *"The 'tilted balance' is therefore engaged in decision making. However, Paragraph 11(d)(i) advises that "the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed". Footnote 7 identifies the Green Belt as one of these protected areas and as such the tilted balance need not apply where the policies within the NPPF provide a clear reason for refusing the development proposed"*.
17. Since this is the first consideration of the planning balance by the officer, its prominence strongly suggests that the remainder of the conclusions are infected with this error.
18. The third paragraph of the officer's conclusions deals with the sustainability matter. In reaching its conclusion it refers to the earlier section of the report. Going back to the lengthy section under the heading of sustainability, I would highlight matters of importance so far as this claim for cost is concerned. I note that in the first paragraph the officer refers to the fact that *"Whilst sustainable brownfield sites are at the top of the development hierarchy, the site is in an isolated location away from the nearest settlement of Braughing"*. There are 2 points of concern here: there is no credit given to the application as being of the nature that puts it at the top of the development hierarchy, and this appears to be because it is said to be an isolated site. 'Isolated' is a term used in the NPPF that has been given a specific meaning, and it is unfortunate (and wrong) that the term was used here. The site is certainly not isolated, even if it is a little distance from Braughing, as it has development in the immediate vicinity.
19. Whilst this point may mainly be an indication of the decision maker's approach of the application under consideration, the way that consideration of the sustainability of the site is judged is more concerning. Having first rehearsed the previous considerations related to this matter, it is only at the end that the important matter of previous appeal decisions is confronted. The officer acknowledges that 2 recent appeals allowed small scale residential development, pointing out that in the first appeal the principle of residential development had already been established, and that the Inspector gave significant weight to that fact.
20. The second appeal is then referred to, with recognition that the council *"withdrew objections related to the isolated and unsustainable location, given the outcome of the first appeal and the fact that the principle of residential use had already been established"*. It compares that position with that of the appeal site by saying that *"In contrast, the current site does not have an existing permission that establishes the principle of residential use"*.
21. What is missing from this conclusion about sustainability is the fact that part (d) of Policy GBR2 allows for the replacement, extension or alteration of the building, providing matters of character, appearance and setting are considered

satisfactory – which they were. Further, there is no consideration of the top of the sustainability hierarchy point.

22. But what is entirely inexplicable is that the conclusion of the previous Inspectors on the sustainability of the location, in relation to developments in the immediate vicinity of the appeal site, is not referred to. It is necessary to record what was said in the first of the appeals: *“I am not therefore persuaded that the appeal site could reasonably be described as being in a sustainable location. Accordingly I consider that residential development of the appeal site would be in conflict with the Council’s spatial development strategy, as encompassed within the hierarchy in Policy DPS2 of the LP, which seeks development to take place in sustainable locations. It would also conflict with Policy TRA1 of the LP insofar as it seeks to ensure a range of sustainable transport options, with a view to enabling sustainable journeys to be made to key services and facilities”* (paragraph 25).
23. In the following paragraph 26, the decision goes on *“However, the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this context, and having regard to the availability of some services in the smaller, nearby centres of Puckeridge and Buntingford, also to the relatively limited scale of the proposed development, I consider that the length, duration and number of journeys necessary to access essential services and facilities, even if taken by car, would not in this case be excessive for a rural location”*.
24. In the second appeal, that followed shortly after, the Inspector recorded that in light of the earlier appeal decisions (those just mentioned) on land adjacent to the appeal site, the Council no longer seeks to defend those parts of its reason for refusal as it related to the isolated and unsustainable location of the site (my emphasis). That is a record, by the Inspector, of the reason that the council no longer sought to defend those parts of its reason for refusal as it related to the isolated and unsustainable location of the site. At that point it was recognised that appeal decisions had made that refusal reason unarguable in this location.
25. That fact alone should have led the officer to conclude that the appeal proposal should be granted permission, since no other refusal reason had been canvassed. Had that been the case, there would have been no appeal before me.
26. I conclude that the refusal of permission that has led to this appeal was unreasonable, and I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

27. 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 In exercise of the all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr Graham Langley Jones, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

28. The applicant is now invited to submit to East Hertfordshire District 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.

Terrence Kemmann-Lane

INSPECTOR