
Costs Decision

Site visit made on 29 October 2025

by **Sarah Dyer BA BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th November 2025

Costs application in relation to Appeal Ref: APP/Y2620/C/23/3335629

Land at Dam Hill Plantation, Holt Road, Edgefield, Norfolk, NR24 2RR

- 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 Nigel Marsh for a partial award of costs against North Norfolk District Council.
 - The appeal was against an enforcement notice alleging a material change of use to woodland and commercial camping, construction of 3 shepherd's huts with supporting wooden stilts and the siting of two clad shipping containers for use as toilet/shower block.
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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, 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.
3. In relation to enforcement action, local planning authorities are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have avoided the need to serve a notice in the first place or ensured that it was accurate. Furthermore, an award of costs can be justified on the basis of unreasonable behaviour arising from a lack of co-operation with the other party. These are the bases on which the applicant is seeking an award of costs.
4. In the applicant's view the Council should have carried out and waited for the outcome of a Habitats Regulations Assessment before it issued the enforcement notice.
5. It will be seen from my decision that I have established that the change of use and operational development had occurred at the time when the enforcement notice was issued and that the applicant's appeal on ground (b) does not succeed. In this context the Council was not anticipating that a breach of planning control would take place and the point which the applicant makes, that a breach of planning control should not be predetermined, is not relevant in this case.
6. Having established that the breach had occurred the Council was able to consider the impact of the development on the European Sites. The applicant argues that the Council did not know whether or not the development would affect a European Site before it issued the enforcement notice. If it had concluded that there would not be an impact, then the written notification under the Conservation of Habitats and

Species Regulations 2017 (the Habitats Regulations) would have been an unnecessary step in considering whether a breach of planning control had occurred or whether the development in whole or part amounted to permitted development under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GDPO).

7. However, the Council has provided evidence that it sought the advice of Natural England in September 2023 before issuing the enforcement notice in November 2023. This confirmed that if the applicant was operating under an exemption certificate and permitted development, the Habitats Regulations would apply, and the Regulation 77 consent would be required from the Council.
8. In combination given this advice, its knowledge of the operation of the payments regime under the Norfolk Green Infrastructure and Recreational Impact Avoidance Mitigation Strategy (GIRAMS) and the location of the site within the Zone of Influence for European Sites, the Council acted reasonably in reaching the conclusion that the development would be likely to have an effect on those sites. Furthermore, adopting the precautionary approach it was appropriate for the view to be reached that the development would be 'likely to have a significant effect either alone or in combination with other plans and projects'.
9. At the point at which the enforcement notice was issued, the necessary GIRAMS payment had not been made. Thus there was no mechanism in place to address the impacts on the European Sites. Consequently there was no basis for the Council to provide its written approval under Regulation 77 of the Habitats Regulations. It was the responsibility of the applicant to obtain the necessary written consent from the Council before the development was commenced and there is no evidence of unreasonable behaviour by the Council in relation to this matter.
10. The applicant also considers that the Council did not cooperate with him in relation to the Habitats Regulations Assessment (HRA). Both the applicant and the Council set out a timeline of the communication between them. This shows that communication was ongoing between August 2023 and November 2023 including in respect of the HRA. There is limited evidence to suggest that the Council did not cooperate with the applicant in this respect and its actions do not amount to unreasonable behaviour.
11. The applicant considers that the Council has failed to provide any evidence of various parts of the alleged breach of planning control. In particular the applicant argues that the Council has not provided any evidence to explain why it regards the shepherd's huts and shipping containers to be operational development. The Council has addressed this question in its appeal submissions. There is limited evidence, for example in the form of photographs or other material to support the comments made but this does not amount to unreasonable behaviour by the Council. In this case, where the applicant has made his appeal predominantly on legal grounds the onus is on him to make out his case on the balance of probabilities.
12. The applicant considers that the Council should have reviewed the enforcement notice following the conclusion of the HRA and the payment of the GIRAMS contribution. This is a matter for the Council. However, as I have stated in my decision letter the GDPO does not grant retrospective permission, therefore the

payment of the GIRAMS contribution cannot result in any part of the breach now constituting permitted development for the purposes of the determination of this appeal.

Conclusion

13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Sarah Dyer

INSPECTOR