



Costs Decision

Site visit made on 10 March 2025

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 28 November 2025

Costs application in relation to Appeal Ref: APP/V2635/C/23/3324860

4 Harvestile Lane, Pentney, King's Lynn, Norfolk

- 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 Miss Hannah Willson for a partial award of costs against King's Lynn and West Norfolk Borough Council.
 - The appeal was against an enforcement notice alleging "without planning permission, the material change of use of the Land from agricultural to use for residential (garden) purposes, and associated operational development".
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. Irrespective of the outcome of the appeal, 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. Awards against a party may be either procedural or substantive. Examples of unreasonable behaviour includes delay in providing information or other failure to adhere to deadlines and introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
3. The applicant seeks a partial award of costs in respect of additional information which was introduced by the respondent at the final comments stage of the procedure. The additional information comprised a number of previous appeal decisions¹ and the respondents' comments on the applicability of those decisions to the appeal scheme. The applicant's case is that those appeal decisions were not recent ones and all information relied on by the respondent should have been provided within the respondent's initial statement of case at the six-week point. The applicant states that it was incumbent upon the respondent to substantiate their own case in the first instance given that this underpinned their decision to take enforcement action in the first place. As a result, the applicant states that they were required to provide an additional round of comments, which has delayed the process and caused the applicant to incur additional expense.
4. The start letter set out the relevant dates by which documents and comments of the parties must be received by. Paragraph 8.1 of the Procedural Guide: Enforcement Notice Appeals – England (June 2005) stipulates that the parties must keep to the

¹ APPV2635/W/19/3238651 & APP/V2635/W/17/3185584

timetable and send the relevant documents within the deadlines to ensure the appeal(s) is dealt with promptly and fairly. Paragraph 9.2.10.2 sets out that these comments must not introduce new material or evidence.

5. In rebuttal, the respondent states that it did not have the opportunity to provide the appeal decisions at an earlier opportunity as their statement of case responds only to the applicant's grounds of appeal. The respondent relies upon the brevity of the applicant's initial statement of case at the two-week stage.
6. It was evident at the two-week stage that, among other grounds of appeal, the applicant was pursuing an appeal under ground (a) and the applicant indicated, within their initial statement, that a '*full statement of case would set out how the change of use of the land complies with local plan policies*'. Subsequently, the applicant's statement of case (at the 6-week stage) provided a more detailed assessment of the unauthorised development with reference to those policies of the development plan specifically cited within the enforcement notice as being the respondent's reasons for issuing the notice. The applicant also referenced specific examples of instances whereby the respondent had approved similar development in Pentney² or where similar development had been allowed on appeal³. Reliance by the applicant on examples of similar development was not evident from the applicant's initial statement of case.
7. Whilst the applicant comments that an appeal under section 174 of the Town and Country Planning Act 1990 (as amended) is set up to require the simultaneous provision of statements of case from the parties and it does not convey the opportunity of having the benefit of sight of the applicant's statement of case prior to preparation of their own statement, to my mind, it was unsurprising that the respondent would wish to respond to the issue of consistency and approach to decision making including with their own examples of previous appeal decisions which, in the respondent's opinion, were favourable to their case.
8. Given the brevity of the initial statement provided by the applicant, I consider the submitted appeal decisions and the related comments of the respondent within their final comments were matters that the respondent could not have reasonably addressed at an earlier stage of the appeal.

Conclusion

9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a partial award of costs is not warranted.

E Brownless

INSPECTOR

² Planning Reference 19/01244/CU – Change of use of agricultural land to garden land at The Limes, Pentney Lane, Pentney & Planning Reference 23/00560/F – change of use of land from agricultural to equestrian, and siting of stables on skids and incidental caravan at Poacher's Pocket, Low Road, Pentney.

³ APP/V2635/W/17/3167504, APP/V2635/W/16/3158814, APP/V2635/W/15/3130906