



Costs Decision

Site visit made on 14 November 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Costs application in relation to Appeal Ref: APP/D3640/W/25/3367284

Laurels, Salisbury Terrace, Mytchett, Camberley, Surrey GU16 6DB

- 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 Mr A Belnik for a full award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for change of use from residential annexe (Class C3) to children's day nursery (Class E(f)).
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.

Procedural claim

3. The PPG makes it clear that a local planning authority may be at risk of a procedural award of costs if it does not behave reasonably, for example: lack of co-operation with the other party or parties; delay in providing information or other failure to adhere to deadlines; or only supplying relevant information at appeal when it was previously requested, but not provided, at application stage.
4. The applicant has highlighted the Council's delay in confirming the validity of the planning application, and the resultant delays to the appeal process. Other than referring to legal advice that it sought when the application was submitted on 31 March, the Council has not explained why it took so long for it to confirm that the original application was valid. In particular, it is unclear why it took from 9 June, when the appeal was lodged, until 6 August for the Council to confirm the validity of the original application.
5. Whilst I do not find that the Council sought to deliberately conceal information from the applicant, the delay in validating the application fell short of good customer service. My reasoning on the noise issues indicates that earlier action by the Council would not have resulted in a different outcome, but the effect of the Council's inaction was to delay the start of the appeal. This constitutes unreasonable behaviour by the Council, which resulted in wasted expense on the part of the applicant in chasing PINS and the Council at the start of the appeal process.

Substantive claim

6. The PPG explains that a local planning authority may be at risk of a substantive award of costs, for example: 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; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead; not determining similar cases in a consistent manner; or not reviewing their case promptly following the lodging of an appeal against refusal of planning permission as part of sensible on-going case management.
7. Whilst in the appeal decision I have found in favour of the applicant regarding biodiversity net gain, I have concluded that the scheme would have an unacceptable impact on neighbours' living conditions. There is therefore nothing which indicates that the Council delayed or prevented a development which should clearly have been permitted.
8. The Council's Local Validation List requires applicants to complete a Biodiversity Statement template in all cases, including where the de minimis habitat exemption is claimed. It is my understanding that no such Statement was completed by the applicant, and so on the basis of the information before it, the Council's first reason for refusal was accurate. In relation to the second reason for refusal, the Council set out why it did not agree with the findings of the applicant's noise impact assessment based on advice from its Scientific Officer. The Council's assertions about the proposal's impact were not therefore vague, generalised or inaccurate.
9. As my reasoning on the appeal makes clear, the imposition of conditions requiring the submission of a travel plan and an operational management plan could not overcome my concerns regarding noise and disturbance. Whilst the Council's rationale for granting planning permission for a day nursery at Gordon Avenue¹ related in part to the imposition of conditions requiring a management plan and travel plan, I have found that the circumstances at the appeal site differ from those at Gordon Avenue. The Council was not bound to determine the two cases in a similar manner, and adopted a reasonable approach in not imposing similar conditions on the appeal scheme.
10. I have considered the Council's on-going case management as part of my assessment of the applicant's procedural claim, and there is no need for me to consider it again as a substantive matter.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred, and a partial award of costs is therefore warranted.

Costs Order

12. 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 all

¹ LPA reference 25/0065/FFU

other enabling powers in that behalf, IT IS HEREBY ORDERED that Surrey Heath Borough Council shall pay to Mr A Belnik the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred between 9 June and 6 August 2025 in seeking to have the appeal registered, such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The applicant is now invited to submit to Surrey Heath Borough 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.

J Heppell

INSPECTOR