



Costs Decisions

Inquiry held on 28 and 29 October 2025

Site visit made on 28 October 2025

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2025

Costs applications in relation to Appeal A Ref: APP/Y1138/C/25/3368147

Land at Oak Lee, Uffculme, Devon, EX15 3DA

- The applications are made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - Application A is made by Mr Tom Dolan for a full award of costs against Mid Devon District Council.
 - Application B is made by Mid Devon District Council for a full award of costs against Mr Tom Dolan.
 - The inquiry was in connection with an appeal against an enforcement notice (notice) issued by Mid Devon District Council for the carrying out of engineering operations comprising the importation of material, laying of hardstanding, the formation of earth bunds, installation of service pipes and the widening of an existing access.
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Decisions

Application A

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

Application B

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

The submissions for Mr Thomas Dolan (Application A)

3. The costs application was submitted in writing. No additional points were made orally at the inquiry or in the agreed extension following the inquiry being closed.
4. The Council's reasons for issuing the notice and the wording of the allegation relate to the loss of woodland and removal of trees. The requirements exceeded what was necessary to remedy the breach and made the notice invalid. The Council had no regard to the land being in agricultural use or that it benefitted from permitted development rights. The Council should have reviewed their reasons for issuing the notice following the Inspector's correction of the notice, as the withdrawal of a reason for issuing the notice can lead to a procedural award of costs.
5. The applicant was put to the unnecessary and wasted expense of having to document the land and interview previous owners/neighbours.

The response by Mid Devon District Council (Application A)

6. The response was made in writing.
7. The Inspector's correction of the allegation related to minor issues, and it remained expedient to issue the notice. The Council brought forward all relevant evidence in accordance with specified timescales. The felling of trees remained a relevant issue

to the alleged laying of hardstanding and this reason for issuing the notice was not withdrawn.

8. Notwithstanding the lack of evidence on the grounds appealed, the appellant chose to pursue the appeal.

The submissions for Mid Devon District Council (Application B)

9. The costs application was submitted in writing. Additional points were made orally at the inquiry and subsequently confirmed in writing.
10. The Council is seeking a full award of costs on both procedural and substantive grounds. The appellant has sought to thwart the appeal process through several changes to the grounds of appeal, the late or non-submission of required documentation, and the submission of unnecessary and irrelevant documentation and emails.
11. The appeal was brought on legal grounds, where the burden of proof rests with the appellant. Neither witness for the appellant was able to give substantive evidence that the hardstanding had been in situ since the 1990s. No other witnesses were called that could give substantive evidence to that effect and what written evidence was provided was inadequate to pass the relevant burden of proof.
12. The Council was put to the unnecessary wasted expense of defending an appeal that had no realistic prospect of succeeding.

The response by Mr Thomas Dolan (Application B)

13. The response was made in writing.
14. It was unclear to the appellant from the notice what was being alleged until it was corrected by the Inspector. If the notice cannot be understood an appeal cannot be made. The Inspector's correction of the notice left the appellant with an appeal on grounds (c) and (d), with no witnesses willing or able to provide evidence before the inquiry. The Council's plan that the Inspector included after the CMC was flawed.
15. The Council caused problems with their insistence on unreasonable biodiversity requirements on planning applications that the appellant sought to progress.

Reasons

16. 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.
17. My concerns regarding the wording of the notice were raised with the parties during the early engagement case management conference (CMC). My concerns did not relate to the allegation that engineering operations had occurred, only to the wording of the works which comprised them, and whether all the requirements were necessary to remedy the breach. I did not find the notice to be invalid. Corrections and variations to the notice were agreed with the main appeal parties at the second CMC, in advance of the proofs of evidence submission date.
18. The correction and variation of a notice by an Inspector is not uncommon and is insufficient reason of itself to justify an award of costs against the Council. The

allegation and requirements were sufficiently clear to allow the breach of planning control to be identified, which is demonstrated by the fact that an appeal was lodged.

19. The need for an inquiry was also discussed at the second CMC. It was agreed that there was a need for evidence relating to the ground (d) appeal to be heard on oath. The appellant confirmed that they intended to call witnesses that could substantiate their claim that hardstanding had been laid on the land in the 1990s.
20. The appellant voiced their intention to withdraw grounds (b), (f) and (g) at the second CMC. However, their subsequent written confirmation of withdrawal related to the ground (f) appeal, and a ground (e) appeal, which had not in fact been made. The Council had therefore to address grounds of appeal subsequently withdrawn at the inquiry.
21. The appellant did not keep to the timetable set out in the start date letter, although documents were subsequently provided within the revised timetable. Written submissions made by the appellant lacked detail in relation to the grounds being appealed and focussed on matters that had little, if no, bearing on the outcome of the appeal. These written submissions were accompanied by a raft of appended documents, many of which also had no bearing or relevance to the case.
22. Notwithstanding the guidance and advice given to the appellant during the second CMC and in various responses to written submissions, the appellant continued to make unnecessary written submissions in advance of the inquiry. The appellant was advised that continued introduction of new matters and documents not previously identified could amount to unreasonable behaviour and an award of costs against them.
23. At the inquiry, the appellant failed to call witnesses to evidence the ground (d) claims, instead seeking to rely upon claimed responses given in some informal interview process. This was a wholly inadequate mechanism for meeting the evidential burden in a ground (d) appeal. In his submissions relating to costs, Mr Carruthers confirms that the people he talked to were not willing to provide their own written submissions or attend the inquiry to support the appellant's case.
24. Furthermore, during the inquiry, the appellant sought to change their case. Claiming that material introduced on to the land had been fly tipped without their knowledge. Also, notwithstanding their written submissions, they had not felled any trees as this had taken place before they purchased the land in March 2025. Their references to 'clearing trees' meaning only that they dug up tree stumps and roots and formed them into piles.
25. The appellant had professional representation, with Mr Carruthers confirming he was well versed in inquiry proceedings having acted as expert witness in approximately *"100 inquiries involving gypsy and travellers"*¹. While the appellant did not have legal representation during the inquiry, Mr Carruthers is sufficiently experienced to have known that, given the lack of substantive evidence to support the ground (d) case, it had no reasonable prospect of succeeding.
26. The case made out by the appellant in relation to the ground (c) appeal relied heavily on the land having been used for agriculture in the past and an intention by

¹ S Carruthers oral evidence to the inquiry

the appellant to use it for agriculture in the future. There was no need for the evidence to support this ground of appeal to be dealt with by inquiry. It could have been dealt with by the written representation procedure.

27. Taking all these factors together, I find the Council has been put to unnecessary preparatory works in relation to the ground (d) appeal that would otherwise not have arisen, prolonged proceedings by introducing new issues and irrelevant documents, and an unnecessary inquiry.

Other matters

28. Various other points were raised by the appellant, including the issue and withdrawal of an earlier enforcement notice, and the Council's unreasonable request of biodiversity surveys in connection with a planning application submission. These points are not relevant to the appeal before me for determination and therefore fall outside the scope of application A.

Conclusion on application A

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

Conclusion on application B

30. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense for Mid Devon District Council has occurred in relation to defending the ground (d) appeal and holding the inquiry. A partial award of costs is therefore warranted.

Costs Order

31. 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 other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Thomas Dolan shall pay to Mid Devon District Council, the costs of defending the ground (d) appeal and holding the inquiry associated with the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

Applicant B is now invited to submit to Mr Thomas Dolan, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Madge

INSPECTOR