



Costs Decision

Inquiry held on 28 October 2025

Site visit made on 28 October 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Costs application in relation to Appeal Ref: APP/W0530/X/25/3368711

Land at Clare Farm, Main Street, Caldecote, Cambridgeshire, CB23 7NU

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A. Grey for a full award of costs against South Cambridgeshire District Council.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for storage use.
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Decision

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

Preliminary Matters

2. The applicant's costs application was made in writing during the Inquiry. The Inquiry was kept open to allow the Council to respond to the application and to enable the applicant to respond to Council's response in writing. The Inquiry was closed in writing.

Reasons

3. 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. Unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal. The applicant's application for costs is both procedural and substantive.

Procedural

4. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, for example by complying with the requirements and deadlines of the process. Examples include lack of co-operation with the other party or parties; delay in providing information or other failure to adhere to deadlines; only supplying relevant information at appeal stage when it was previously requested, but not provided, at application stage; not agreeing a statement of common ground in a timely manner or not agreeing factual matters common to witnesses of both principal parties; introducing fresh and substantial evidence at a late stage necessitating an adjournment or extra expense for preparatory work that would not otherwise have arisen; and prolonging the proceedings by introducing a new reason for refusal.

5. All parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in an Inspector's consideration of whether or not costs should be awarded. Within their Costs application, the applicant sets out the background to the appeal.
6. Prior to the submission of the Lawful Development Certificate (LDC) application which is the subject of the appeal, the applicant submitted a LDC application which identified the whole of the land, including the building, access and adjoining land. A new plan, with a revised red line was submitted prior to determination, but the application was refused. A new application, the subject of the appeal, was submitted with a 'minimalist' red line, in attempt to address the Council's concerns in respect of the previous application. This was refused. It is suggested that the refusal notice was expressed in broad terms and requests for explanation are asserted to have been ignored.
7. The Council made its decision on 8 April 2025, which included reasons. The Council provided the applicant with a copy of the Officer's Report on 14 April 2025. I understand that the Council's decision is likely to have come as a surprise to the applicant, given its request to extend the period of determination on the same day. Nonetheless, in respect of a LDC application, the PPG is quite clear that it is for the applicant to provide sufficient information to support an application. While the applicant emailed the officer on 31 March asking '*let me know if you need any clarification*' the Council was entitled to make a decision on the basis of the information submitted. It was not obliged to go back to the applicant and request further information.
8. The Council has engaged with the applicant during the appeal process, signing a Statement of Common Ground (SoCG) on 21 August 2025 and a subsequent Supplementary SoCG on 30 September 2025. This was in line with the timetable set out by the Planning Inspectorate in its Start Letter and in line with the timetable set out by me in my Case Management Conference (CMC) note of 16 September 2025. While the Council has not agreed with the applicant on all the matters detailed in the SoCG and Supplementary SoCG, from the evidence it is clear that it has engaged with the applicant and adhered to deadlines. Although the name of the site was not agreed until 30 September 2025, it was agreed prior to the start of the Inquiry. I do not consider the Council has been unreasonable in this regard.
9. The applicant states that it was only in the Statement of Common Ground of 21 August 2025, that the storage use of the building was accepted by the Council. However, Ms Gomez-Duran details in her proof that on 2 October 2024, 'LPA confirmed by email that "*agree from the evidence provided that the building on site has had a continued storage use for over 10 years. However, we have not been provided with enough evidence to prove that the rest of the land included within the red line has been in storage use for the last 10 years*".' A further response from the Council, dated 28 January 2025 is stated as reiterating "*we did not have sufficient evidence that land around the building that was included within the red line had been in storage use for the continuous period of 10 years.*"
10. Within the Applicant's Statement of Case, dated 22 August 2025, it is set out that it is agreed that the building itself has been in use for storage purposes since at least 1991. This reflects agreement reached, as set out in the Statement of Common

Ground. It seems to me that the applicant was clear that the Council's concerns related to the use of the land surrounding the building, rather than the use of the building itself.

11. The applicant suggests that their team has been put to the trouble of addressing the use of the building, unnecessarily and of introducing new evidence by Mr Grey (Supplementary Proof), Ms Gomez-Duran (Proof) and Mr Shrimplin (Proof). However, Mr Shrimplin's proof focuses on the history of the site, rather than the use of the building and Mr Grey's proofs focus on the maintenance of the land and the access. Ms Gomez-Duran's proof focuses on the application process with respect to the first LDC application and the second LDC application (which is the subject of the appeal). Even if the applicant was in some doubt as to whether they needed to address the use of the building, it seems unlikely that they have incurred wasted expense in dealing with this matter.
12. The applicant raises concern regarding the Council's introduction of the notion that the land outside the building forms a separate planning unit, with a nil-use. It is suggested that the Council had still not considered how the need for access to the building is to be considered or why the whole site should not be considered the planning unit. The applicant suggests agreement might have been easier to reach if the Council had properly inspected the site at an early stage. However, ascertaining the correct planning unit was not obvious from a site visit but required discussion of the matter during the Inquiry. The Council has put its mind to matters concerning the planning unit and was not unreasonable in making the findings it did.

Substantive

13. Local planning authorities are also required to behave reasonably in relation to substantive matters at the appeal, for example by unreasonably refusing applications, or by unreasonably defending appeals. Examples include acting contrary to, or not following, well-established case law and not reviewing their case promptly following the lodging of an appeal.
14. The applicant asserts that the Council has not properly considered the planning unit for the storage use; has not taken into account access requirements, nor the lack of sub-division of the site, nor the ownership of the site, nor the applicant's care of the site as a whole. It is suggested that it has not had regard to the basic and well-known principles of the planning unit, as set out in *Burdle*¹ and has therefore acted contrary to, or not followed well-established case law.
15. In support of their LDC application, the applicant submitted an affidavit, setting out the history of the site and their use of it. The Council suggests that, given the content of the document, it was entirely reasonable for the Council to indicate that the evidence in respect of the use of the Land around the Building was not sufficiently clear and precise.
16. On my reading of the written evidence submitted in support of the application, I consider the Council was generous in concluding that the applicant's burden had been discharged with respect to the building. It was only during the Inquiry that it was explained what the appellant meant by the term continuous, or that they explained that they had accessed the site weekly to deposit or retrieve items stored

¹ *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207

there. The Council has set out its position regarding the planning unit within the Supplementary SoCG, and Mr Chenery has expanded upon this in their proof, in response to questions raised by me in my CMC note. Although I have disagreed with the Council's conclusions and have found that the appeal site comprises part of a single planning unit, this is a judgement I have made on the basis of the evidence before me.

17. While it may have been obvious to the applicant that the appeal site comprised the planning unit, as set out in my decision letter, in an LDC the burden of proof is firmly on the appellant (to the civil standard, which is the balance of probabilities). In my view, the Council was not unreasonable in concluding that it did not have enough information to certify that the lawful use of the appeal site was a storage use, nor was it obliged to issue a certificate in respect of the building if it had concerns regarding the evidence submitted in respect of the land, particularly given the need to ascertain the correct planning unit.
18. Although the Council's position has changed during the course of the Inquiry, this has been in response to evidence produced prior to and during the Inquiry. I do not believe that the Council was unreasonable in taking a different view, or in reviewing its case in response to evidence provided during the course of the Inquiry.

Conclusion

19. Thus, for the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Savage

INSPECTOR