

---

## Costs Decision

Hearing held on 26 November 2025

Site visit made on 26 November 2025

**by Graham Wraight BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

---

### **Costs application in relation to Appeal Ref: APP/D2320/W/25/3372758**

#### **Land 85M East Of 48 Town Lane, Whittle-le-Woods, Chorley PR6 7DH**

- 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 John Kerrigan for a full award of costs against Chorley Borough Council.
  - The appeal was against the refusal of planning permission for change of use of land to form a 7 pitch traveller family caravan site with access from Town Lane.
- 

### **Decision**

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

### **Preliminary Matter**

2. The applicant's initial costs application was made in writing, and it was supplemented verbally at the hearing, a transcript of which is appended to this decision (Appendix A). The respondent's rebuttal and the applicant's final comments were both made in writing, and therefore I have not summarised them in this decision.

### **Reasons**

3. 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.
4. What the Planning Committee members had in their minds when they resolved to refuse planning permission is not clear from the minutes provided or from the sole reason for refusal. There is no evidence that they considered the appeal proposal in the context of the permission in principle for up to 9 detached dwellings on the same site. To have undertaken an objective analysis they needed to have grappled with this alternative. In the absence of such a comparison and any form of reasoning to support their conclusions, their reference to the unacceptable adverse impact of the appeal proposal on the semi-rural character and appearance of the local area is nothing more than a vague assertion. This represents unreasonable behaviour.
5. I do not accept the respondent's rebuttal position that the permission in principle should be discounted, and that the baseline should be assumed to be a greenfield site. It is correct to say that without technical consent details having been approved it is not possible to know exactly what form such a development could come

forward in. But there is no doubt that the Council was content that up to 9 dwellings could be accommodated, given that amount of development is a matter for consideration at permission in principle stage. There would be a loss of the greenfield site whatever the form of that development. The reference to the expiration of the permission in principle is to my mind also not of relevance. It is an extant permission that is not time expired. In addition, the respondent makes no case that it should not in fact have been granted or that circumstances have materially changed so that any further application for dwellinghouses would be unlikely to be successful. It is clearly a material planning consideration which is relevant when considering visual impact and in particular in terms of the reference to semi-rural character.

6. Furthermore, there is no evidence that at the point they made their decision that the Planning Committee members performed a planning balance and weighed the harm that they found against the other material considerations in favour of the development. There is also no evidence that they discharged their Public Sector Equality Duty in reaching their decision. There can be no doubt that the matters of need and supply which includes the absence of a 5 year supply of traveller sites and thus requires consideration as to whether the presumption in favour of sustainable development applies, a lack of alternative sites and the Planning Policy for Traveller Sites are material considerations which had to be weighed against any harm that was found. Either there was a failure to undertake such a balance or a failure to provide reasons and a record of such having taken place. Whatever is the case, each is an example of unreasonable behaviour.
7. The applicant has suggested that the respondent has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. That the respondent has failed to demonstrate that at the point the decision was made they had considered the extant residential permission, carried out the planning balance and explained why the benefits did not outweigh the harm, means that they cannot rely on a defence of a mere difference in planning judgement against such a claim. On the basis of all I have read, heard and observed at my site visit I share the applicant's view that this is a development which clearly should have been permitted and that an appeal should not have been needed. That it was not permitted amounts also to unreasonable behaviour.
8. The unreasonable behaviour that I have identified has led the applicant to incur unnecessary expense in having to submit an appeal. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has occurred and that a full award of costs is therefore warranted.

### **Costs Order**

9. 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 Chorley Borough Council shall pay to Mr John Kerrigan, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicant is now invited to submit to Chorley 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.

*Graham Wraight*

INSPECTOR

## **APPENDIX A**

### Supplementary comments of the applicant

We say local Councillors failed to meet with paragraph 39 of the National Planning Policy Framework in terms of proactivity. We say they unreasonably rejected the Officer recommendation who had given them quite clearly the issues and thereafter this Council prevented development which should have reasonably been permitted.

They used vague, generalised and inaccurate assertions – we see this raised regarding noise by the Councillor. Concerns could have been dealt with by condition.

Improperly failed to have regard to material planning considerations – paragraph 28 of the PPTS and paragraph 11d) of the NPPF.

Failed to have regard to the residential planning permission permitted and the fact that the site is a former landfill site – failed to have proper regard to baseline to judge the development.

Failed to address similar applications in the same way and failed to act in accordance with the PSED – breach of the act, manifestly no difference between grant of planning permission for 9 dwelling residential site and 7 pitch gypsy and traveller in terms of character and appearance.

Unreasonable – required us to appeal, full application for costs. No sympathy to Councillors who made this decision, Officers are exonerated and tried to defend. In not awarding costs you would not be assisting them in their jobs – need to reflect by rate payers, understand this conduct has affected them – the cost rests with them.