



Costs Decision

Site visit made on 5 November 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th January 2026

Costs application in relation to Appeal Ref: APP/W4223/W/25/3372683

Asda Stores Ltd, Greenfield Lane, Shaw, Oldham OL2 8QP

- 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 Asda Stores Limited for a full award of costs against Oldham Metropolitan Borough Council.
 - The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted, for variation of condition 10 of PA/054343/07 as follows: "No service vehicles shall enter, leave, be loaded or unloaded within the site boundary of the retail unit outside the hours of 06.00 and 22.00 Monday to Saturday and 09.00 and 17.00 hours on Sunday, Bank and Public Holidays", without complying with conditions attached to planning permission Ref PA/336191/14, dated 25 November 2014.
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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. The PPG also states that an application for costs will need to clearly demonstrate how any alleged behaviour has resulted in unnecessary or wasted expense. Unreasonable behaviour on the part of the local planning authority may include making vague and generalised assertions about the proposal that are unsupported by objective analysis.
3. The applicant's stance is that the case officer's reasoning wrongly interpreted the conclusions of the Noise Impact Assessment (NIA) without referring to the methodologies, assessments or interpretation of policies. Also, that the consultee response was not substantive, having regard to the Town and Country Planning (Development Management Procedure) Order 2015, and 'Consultation and Pre-Decision Matters Guidance', published by the Ministry of Housing, Communities and Local Government. The applicant also considers that the Council did not engage with them positively and proactively.
4. The Council's officer report states within its reasoning that predicted noise levels at the closest receptors during certain operations, particularly loading and unloading, would marginally exceed Significant Observed Adverse Effect Levels. It is unclear if they took account of the NIA as a whole, including such factors as World Health Organisation guidelines, British Standards, baseline data and derived sound levels during delivery activities within the yard. The NIA also does not specifically state that noise exceedance particularly relates to loading and unloading. The Council

also incorrectly states that mitigation is recommended as part of the NIA, and that this includes acoustic fencing.

5. All of these factors undermine the credibility of this reasoning, as it amounts to no more than an assertion without evidence. Furthermore, their interpretation of the NIA appears to directly lead to the conclusion that noise limiting mitigation measures are needed, as a direct result of the findings of the NIA. The issue is further compounded by the Council's continued stance during the appeal process, that the NIA was fully considered, even though the appellant points out the specific flaws in their interpretation of it. As such, I conclude that the Council has behaved unreasonably in assessing the application. This has resulted in unnecessary and wasted expense in having to address this matter in the appeal.
6. The Environmental Health consultee (EHO) was entitled to object to the application. It is unclear if they had sight of the NIA, as it is not referenced at all. However they have specified their concerns and provided advice. The response is therefore substantive. Their advice in respect of the NIA would have been very helpful to the case officer, but ultimately it is for the local planning authority to assess the evidence before them.
7. On the matter of positive and proactive engagement, the Council is not bound by the National Planning Policy Framework to request further information from an applicant. Even if additional information or clarification, had been requested and provided, I cannot be certain that this would have avoided the appeal. The reason for this is that it is clear that the Council took account of other relevant material considerations not directly covered by the NIA, such as interested party comments and a history of complaints. It may still have concluded that the proposal would cause unacceptable harm to the residential amenity of nearby occupiers.

Conclusion

8. The need to deal with issues set out above relating to the assessment of the NIA, mean that I find unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described by the Planning Practice Guidance. It has been demonstrated that a partial award of costs is justified.

Costs Order where awarding costs

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 Oldham Metropolitan Borough Council shall pay to Asda Stores Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the interpretation of the Noise Impact Assessment; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Oldham Metropolitan 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.

E Heron

INSPECTOR