



Costs Decisions

Inquiry held on 9 and 10 December 2025

Site visit made on 10 December 2025

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2026

Costs applications in relation to:

Appeal A Ref: APP/R0660/C/25/3370340

Appeal B Ref: APP/R0660/C/25/3370342

**Land at Acres Croft, Forty Acre Lane, Twemlow Green, Holmes Chapel, Crewe
CW4 8DU**

Costs application 1:

- The application is made by Ms Claire Fryer for a full award of costs against Cheshire East Borough Council.

Costs application 2:

- The application is made by Cheshire East Borough Council for a partial award of costs against Ms Claire Fryer.
 - The applications are made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The Inquiry was in connection with appeals against enforcement notices alleging the unauthorised operational development comprising the erection of a building and associated unauthorised operational development in the creation of an area of hardstanding (Appeal A) and the material change of use of the Land from an agricultural use to a residential use of the Land associated with the dwellinghouse known as Acres Croft (Appeal B).
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Costs Application 1

Decision

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

The submissions for Ms. Claire Fryer

2. The costs application was submitted in writing and the grounds are summarised as follows.
3. The Council has delayed consideration of evidence and failed to give proper weight to statements under oath and immunity period arguments associated with the related lawful development certificate application. The delay has affected the possibility of the lawful development certificate application being considered in the ongoing appeal.
4. The Council refused to withdraw the enforcement notices, to allow time for the lawful development certificate application to be considered, and despite the notice requirements being vague and draconian.

5. There has been a failure to engage with the appellant and its advisers. The Council has failed to explain its justification for taking enforcement action.

The response by Cheshire East Borough Council

6. The response was made in writing. The Council note that the lawful development certificate application is not before the Inspector. It engaged with the appellant, but found there was no cogent reason for the notices to be withdrawn.

Reasons

7. 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.
8. The appellant's costs application draws heavily on alleged defects regarding the processing of a lawful development certificate application. Whilst that application relates to Acres Croft, it is subject to a separate decision making process, including potential appeal procedure, and should not be conflated with the present appeal process. Any unnecessary or wasted expense arising from unreasonable behaviour alleged in relation that application, must be dealt with in the context of that appeal, should one be submitted.
9. The Council reached the view that it was expedient to take enforcement action and gave reasons for this, as set out within the enforcement notices and subsequent evidence. It was not bound to withdraw the notices, despite the parallel application for a lawful development certificate. In any event that application was refused and the appellant's ground (d) appeal in relation Appeal B was unsuccessful, as the requisite period of continuous use in order to achieve immunity from enforcement action could not be demonstrated. The appellant was not put in a position where the decision on the lawful development certificate application negated the need to pursue the ground (d) appeal in relation to Appeal B.
10. Notwithstanding the partial success of the ground (f) appeal, arising from the partially successful ground (d) appeal in relation to Appeal A, I did not find the requirements of the notice to be vague or draconian. I am not persuaded the outcome of the appeals would have been more favourable to the appellant, had the Council engaged more.
11. The appellant also says that the Council's response to its Costs application was made after the agreed deadline specified by the Inspector. I acknowledge the Council's response was submitted marginally after the agreed time. However, I do not consider this has in any way prevented the appellant from setting out their case in full, and thus I am satisfied that no prejudice has been caused.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Costs Application 2

Decision

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

The submissions for Cheshire East Borough Council

14. The costs application was submitted in writing. The Council says that the appellant has failed to be open and transparent with the Inquiry regarding periods of residence at Acres Croft. They also served late, significant quantities of rebuttal evidence, deemed inadmissible by the Inspector. This has generated unnecessary work. They also say that the appellant has conceded certain evidence to be irrelevant, as late as the final day of the Inquiry. This has resulted in wasted time in the preparation and consideration of evidence.

The response by Ms Claire Fryer

15. The response was made in writing. The appellant responds that there is no basis to suggest they have provided evidence shown to be manifestly inaccurate or untrue, or that they deliberately concealed relevant evidence. They have not therefore behaved unreasonably. They reject the claim that the submission of rebuttal evidence or any concessions made at the Inquiry has generated unnecessary work or resulted in wasted time. The appellant also says that the Council's submission was made after the agreed deadline specified by the Inspector.

Reasons

16. At the outset I acknowledge the Council's costs application was submitted marginally after the agreed time. However, I do not consider this has in any way impeded the appellant from being able to make a full response, and thus I am satisfied that no prejudice has been caused.
17. I turn to the question of the accuracy and truthfulness of evidence. It was the appellant's evidence that she had provided a 'care-of' address, namely Twemlow Cottage, for part of the time she was temporarily occupying a caravan at Acres Croft, whilst redevelopment works were undertaken in relation to the main dwelling there. However, during the Inquiry, evidence came to light from a third party suggesting that Twemlow Cottage had actually been used as the appellant's and her family's place of residence for a six-month period, between October 2021 and April 2022. This led to the requirement for a further period of examination of the appellant during day two of the Inquiry.
18. Only after further examination, was it revealed that the appellant's partner had occupied Twemlow Cottage for a period of several months. Thus, neither the appellant nor any other witness had provided, until this period of further examination, a complete picture of the significance of Twemlow Cottage, in terms of where persons closely related to the appellant had lived.
19. Whilst the decision not to disclose this information may have been for sensitive personal reasons, it seems to me that it resulted in the Inquiry being unnecessarily prolonged. This is because it gave rise to the need to re-examine the matter, in relation to which a contradictory account had been given within the appellant's partner's statutory declaration, purported to be sworn truthful evidence; also in light

of an absence of any suggestion from the appellant's own evidence, up to this point, that the partner's statutory declaration was inaccurate or untruthful. I conclude that this additional examination time has resulted in a degree of wasted time and expense.

20. Whether in occupation of the main dwelling, or temporarily the caravan within the same title, this in itself was immaterial in terms of the question of continuous use at Acres Croft. Accordingly, had it been possible to demonstrate continuous use of the appeal site over the appellant's ownership of Acres Croft, occupation of the caravan, as opposed to the main dwelling, would not have discounted this conclusion. Occupation of the caravan does not contradict the point in the appellant's witness statement that the property had been lived at for approximately 6 years.
21. In addition, that occupation of the caravan (and related to this, time spent away from the caravan with other family members and in Airbnb accommodation) only came to light following checks made by the Council, did not in itself constitute unnecessary or wasted expense, as it would be reasonably expected that the Council would have checked its records in any event.
22. The Council says that further unnecessary and substantial work was required in attempting to respond to rebuttal evidence submitted by the appellant. Whilst I acknowledge the Council complained about the nature of this submission prior to the Inquiry commencing, I determined at the outset of the event that the appellant's rebuttal submission was inadmissible. Unless I had determined to the contrary, I do not therefore accept there would have been a need for the Council to read, digest, investigate and respond to this information. Had I done so, the Inquiry would have been adjourned to allow time for this. It follows that I do not find wasted time and expense in this particular regard.
23. Finally, the Council says the appellant's planning witness conceded certain evidence to be irrelevant as late as the final day of the Inquiry. I have checked my notes. Though contrary to my own conclusion, Mr Kettle did not concede that in his view a break in the occupation of Acres Croft, between April to November 2016, represented a break in continuity of use of the appeal site. However, I am in no doubt that he made an unqualified concession that a gap in occupation of the property between 2014 and 2016 would have constituted such a material break in the continuity of use, and that this would have rendered irrelevant the appellant's own evidence regarding the significance of the continuity of use.
24. I am not persuaded, from the evidence before me, that planning applications referred to in 2014 and 2015, within the costs rebuttal statement, make any difference to this point, particularly in light of Mr Garner's evidence to the Inquiry that the appellant's predecessor moved into Acres Croft in 2016.
25. However, notwithstanding this, it seems to me that the break in occupation of Acres Croft between 2014 and 2016 only first came to light from the Council's rebuttal evidence, submitted shortly before the Inquiry. The 'irrelevance' of the appellant's own evidence, in terms of demonstrating continuous use over the requisite period, would not therefore have been known to the appellant's planning witness before the production of the appellant's statement of case and associated proofs of evidence. The appellant's closing position was to maintain there had been continuous residential use of the site between 2015 to 2025. I disagreed with this position, on

the balance or probability, however this does not make the appellant's stance unreasonable. I am not persuaded the Council has incurred wasted time and expense in dealing with this point.

26. Drawing the above considerations together, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred only in respect of the additional examination time required, and a partial award of costs is therefore warranted.

Costs Order

27. 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 Ms Claire Fryer shall pay to Cheshire East Borough Council, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the need for further examination of the appellant at the Inquiry, regarding the significance of Twemlow Cottage; such costs to be assessed in the Senior Courts Costs Office if not agreed.
28. The applicant is now invited to submit to Ms Claire Fryer, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R. Merrett

INSPECTOR