



Costs Decision

Site visit made on 10 December 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2026

Costs application in relation to Appeal Ref: APP/M5450/W/25/3374164 147 Eastcote Lane, Harrow, HA2 8RR

- 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 Qasim Gulamhusein for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for an Application for Outline Planning Consent (Access Reserved) for the erection of a 2 new detached single storey dwellings on the land adjoining the site at 147 Eastcote Lane. All matters reserved save for Scale, Layout, Appearance and Landscaping.
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Decision

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

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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant is seeking a full award of costs on the basis that the Local Planning Authority (the LPA) prevented or delayed a development that clearly should have been permitted; made vague generalised or inaccurate assertions about a proposal's impact; refused an application which was capable of being resolved by imposing planning conditions; acted contrary to well-established case law and failed to co-operate with the applicant.
4. Firstly, the applicant alleges that the LPA has prevented or delayed a development that clearly should have been permitted on the basis that the proposal is exempt from BNG. They further state that all other matters were deemed to be acceptable.
5. The LPA does not dispute that the sole reason for refusal relates to Biodiversity Net Gain. However, the LPA dispute whether the development benefits from the de minimis exemption. Although the LPA validated the application on the basis of the information provided at the time, following an assessment of the evidence before them and a site visit, they concluded that the site would be required to provide BNG in accordance with the regulations.
6. As I have set out in my decision letter, where a proposal does not qualify as an exemption, legislation requires that certain information must be submitted at the application stage. The LPA's decision sets out reasons, related to the above issues and provision of BNG, for refusing planning permission in this case. These reasons

are substantiated with reference to relevant policy and legislation. Furthermore, as can be seen from my appeal decision, I agree with the reasons for refusing permission. Consequently, I find that the LPA did not act unreasonably or prevent or delay development that clearly should have been permitted.

7. Secondly, the applicant states that the LPA's description of the land as "overgrown grass" is a vague and inaccurate assertion. However, this is their assessment of the condition of the land at the time of their site visit. Whilst this is strongly refuted by the appellant, there is no robust ecological assessment of the appeal site and the photographic evidence provided by the main parties demonstrates noticeable differences in the condition and appearance of the land at various times. Furthermore, whilst the LPA is required to assess whether a proposal would be capable of meeting the BNG requirements, there is no requirement for them to provide their own ecological evidence. The onus is on the applicant to provide an accurate pre-development baseline position.
8. Therefore, although I accept that the LPA are not correct to state that no BNG information was provided, the evidence provided in respect of BNG fails to meet the minimum requirements and thus they are justified in reaching the conclusion to refuse the application on this basis.
9. The applicant also states that the LPA has acted unreasonably by refusing planning permission on a planning ground capable of being dealt with by conditions. The PPG states that under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). The biodiversity gain condition is a pre-commencement condition, once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development.
10. I recognise that the PPG states that it would generally be inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met. However, decision makers may need to consider more broadly whether the biodiversity gain condition is capable of being successfully discharged.
11. In this particular case and for the reasons set out in my decision letter, the lack of clarity regarding both the baseline conditions and the proposed habitat enhancements means that I cannot be certain the standard biodiversity gain condition could be discharged. Therefore, I find that the Council has not acted unreasonably by refusing planning permission on a planning ground capable of being dealt with by conditions.
12. In respect of whether the LPA have acted contrary to well-established case law, I have had regard to the various case law examples which have been brought to my attention, including, North Wiltshire¹ and St Alban's² which established the principle of consistency in decision-making being a material condition and set out that clear and reasoned explanations must be given for any departure.

¹ North Wiltshire District Council v Secretary of State for the Environment and Clover [1992] 65P.&C.R.137

² St Albans City & District Council v SSCLG [2015] EWHC 655

13. However, whilst I accept that the appearance of the appeal site has been referred to as a 'gravelled surface' in previous planning decisions and appeals, this is not conclusive evidence of the ecological value of the site for the purposes of assessing whether appropriate provision of BNG will be made. Based on the evidence before me, these decisions were not assessing the site for the purpose of BNG. Therefore, in assessing whether the proposal would comply with the statutory framework and benefit from an exemption, it is not unreasonable or inconsistent for the Council to question the evidence provided particularly in light of the inconsistencies between some of the information provided and a lack of robust evidence to demonstrate the applicant's position.
14. In respect of the previous appeal decisions, whilst the applicant states that the previous Inspector's description of the site as gravelled should have set a baseline for any future assessment of the site's ecological condition, I disagree. The Inspector was describing the site rather than providing a detailed assessment of the ecological condition of the site, there is a fundamental difference between these two matters. For the purposes of calculating BNG, the regulations and PPG set out that applications should be supported by an Ecological Assessment, which has not been provided. Accordingly, I find that the Council has not acted unreasonably or contrary to well-established case law.
15. The applicant considers that the LPA failed to adopt a positive and proactive approach as is advocated by the Framework. I acknowledge that the applicant made numerous attempts to discuss the application with the LPA during its determination. I also acknowledge that that Council could have been more proactive in their approach given that the application was refused solely on BNG grounds.
16. That being said, having considered the evidence before me I am not persuaded that an appeal could have been avoided. The applicant maintains that the site is exempt, and the LPA disagree. Furthermore, the applicant decided to submit an appeal rather than resubmit the planning application to address the reason for refusal. However, during that appeal process they have failed to address the statutory requirements and duties highlighted in the Council's decision notice.
17. In light of these circumstances, even if I found that the Council acted unreasonably, for the reasons outlined, this did not cause the applicant to incur unnecessary wasted expense in this process. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Lancaster

INSPECTOR