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## Costs Decision

Inquiry held on 25-26 November 2025

Site visit made on 26 November 2025

**by AJ Steen BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

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**Costs application in relation to Appeals A Ref: APP/L2250/C/25/3369822, B Ref: APP/L2250/C/25/3369823 and C Ref: APP/L2250/C/25/3369825**

**Land at Yew Tree Farm, Stone Street, Stanford, Ashford, Kent, TN25 6DH**

- The application is 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 application is made by Mr Neil Buckley of Innov8 Training Ltd, Mr David Holt and Mr Toby Clifton-Holt for a full award of costs against Folkestone and Hythe District Council.
  - The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of land from agriculture to use for the provision of training in the use of construction plant and machinery; and the creation of earth mounds.
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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. The appellants state that the application for an award of costs is substantive, relating to the issues arising from the merits of the appeal.
3. The appellants suggest that the Council did not carry out adequate prior investigation into the use of the site prior to issuing the enforcement notice. They indicate that, had they done so, they would not have issued the notice.
4. I understand that the Council began investigating the use of land adjacent to the area used by Innov8 Training Ltd that was used for storage and parking by Colas, a highway maintenance company. They have since vacated the land. Whilst that may be the case, it is reasonable for the Council to investigate unauthorised uses by occupiers of adjacent land. The fact that the action taken by the Council originated in this way does not constitute unreasonable behaviour.
5. The notice was issued following a decision on a planning application for the use. That was submitted and validated in July 2021 and finally determined in May 2025. The appellant suggest the Council only engaged in limited discussions with the appellants prior to submission of the planning application and during the course of its consideration, although it is unclear what further discussion would have been expected. Whilst the delays in processing the application may have been caused by the Council, they may have also allowed time to accrue before enforcement

action was taken. On balance, I consider the Council did not behave unreasonably in this regard.

6. My attention has been drawn to reference in the Council report into the planning application that the use had been continuing for 9.5 years and that this was incorrectly calculated such that it should have been over 10 years. In assessing the application the Council would not be expected to consider evidence relating to the length of use of the land in order to consider lawfulness. It is not unreasonable for them to take the appellants case at face value.
7. Nevertheless, had they realised their error, they should have investigated the situation more diligently and set out their considerations in more detail in the report into taking enforcement action. In that case, the appellant would have been aware of the Council's considerations earlier. Whilst I accept that errors can be made and have sympathy for the Council's position, the importance of this error was substantial and must comprise unreasonable behaviour.
8. However, the test is two-fold and I need to consider also whether it resulted in wasted expense in the appeal process.
9. Some evidence has been produced by the Council as to when the use started in seeking to contradict that presented by the appellant, such as the aerial photograph showing the crop in the field in 2015. This indicates that, had they calculated the period correctly, they would have come to the same conclusion and issued the notice in any event. I note that this aerial photograph could have been shared with the appellants sooner, but I consider that would have been unlikely to have materially affected the situation.
10. The Council have argued that the break in the use during 2020 and the Covid emergency was material. I note that considerations in May 2021 and the report into the planning application did not appear to consider this. Nevertheless, they came to the conclusion that this break was sufficient to mean that they could not take enforcement action at that time. This suggests that they would have proceeded to issue the notice in any event.
11. Given the Council's interpretation of evidence relating to when the use started and the break in the use for Covid, it is likely that they would have taken enforcement action even if they had not miscalculated the 9.5 years. As a result, this has not led to wasted expense in the appeal process.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*AJ Steen*

INSPECTOR