



Costs Decision

Site visit made on 12 January 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 21 January 2026

Costs application in relation to Appeal Ref: APP/R3705/X/25/3370755

Bottom Yard, Stipers Hill Farm, Kisses Barn Lane, Warton, B79 0JS

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by T&CPP Limited for a full award of costs against North Warwickshire Borough Council.
 - The appeal was against the refusal of a certificate of lawful use or development for proposed continued siting of containers within the land edged red on the submitted plan.
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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 submits that the Council acted unreasonably by attempting to refuse the application on an invalid refusal notice by not including any reasons for refusal on that notice. This action resulted in the applicant having to incur costs in seeking legal advice on that matter. It is also contended that the Council failed to engage with the applicant on this matter. Furthermore, the applicant believes the Council misunderstood what was being applied for and failed to apply the correct immunity test and balance of probability standard.
4. Furthermore, it is submitted that the applicant had to engage additional legal services to assist in discussions in relation to the appropriate planning fee for the application. It is contended that had the Council granted the resubmitted application the appeal could have been withdrawn.
5. In response the Council accept that they made an error in not including reasons on their decision notice, but state that this was resolved by the Planning Inspectorate. Their appeal statement and additional comments dealt with the correct mechanism for consideration of the applicant's application for a lawful development certificate for the continued siting of shipping containers on the land. The first legal Advice Note provided by the applicant was dated June 2024, which was prior to the submission of the application the subject of the appeal. The second legal Advice Note, dated November 2025, was provided by the applicant in response to matters raised by the Planning Inspectorate, not the Council. In relation to the resubmitted application submitted by the applicant, the Council advise that this was dealt with within the statutory time limit for consideration of such applications.

6. The Council acknowledge the absence of reasons on their decision notice and advise that this was a clerical error. However, the reasons for their refusal were clearly set out in the Council Officer's Report and repeated and clarified in their subsequent appeal statement. The applicant was clearly aware of the reasons why the Council had issued their decision to refuse the application and made a valid appeal which included a response to those reasons. Whilst the absence of reasons on the Decision Notice was unfortunate, it was clearly a clerical error, as opposed to any unreasonable behaviour. Moreover, it did not prevent the applicant from making a valid appeal. The applicant's subsequent decision to take legal advice on the validity of the Council's decision and in response to the Inspector's questions in relation to the original application, was an individual choice, and any costs incurred were not to my mind because of any unreasonable behaviour by the Council.
7. I understand that there was some confusion over which type of lawful development certificate was being applied for when the original application for a LDC was made to the Council. However, those discussions took place as part of the application process. The matter was resolved prior to the Council's decision and the applicant's subsequent submission of the appeal. Thus, there was no unnecessary or wasted expense as a result of those discussions as part of the appeal process. Indeed, the applicant's first legal Advice Note was dated June 2024, which was prior to the original application being submitted (May 2025) and any expense incurred in seeking that advice was not therefore as part of the appeal process. Furthermore, any discussions and engagement of legal services in relation to the resubmitted application to the Council did not result in unnecessary costs in relation to appeal process. I also understand that the resubmitted application was determined within the statutory timescale and refused.
8. The Council Officer's Report set out clearly what the proposal was for under section 192 of the Act, and set out the correct legal test, including 'on the balance of probability'. I recognise that the Council's reasoning in relation to their consideration of the application and appeal is a little confused. However, they clearly considered that the siting of the containers was ancillary to the tyre recovery, storage and distribution use taking place on site and set out why that business was unlawful. Consequently, even if those containers were operational development and had been on site for more than four years, they did not consider that the containers were immune from enforcement action, and thus not lawful. It can be seen from my decision that I too found that the continued siting of the containers would not be lawful, and having regard to the Council's considerations, the appeal could not have been avoided.

Conclusion

9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elizabeth Pleasant

INSPECTOR