



Costs Decision

Site visit made on 20 January 2026

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2026

Costs application in relation to Appeal Ref: APP/A1530/W/25/3375872

Land south of, Kelvedon Road, Kelvedon Road, Essex, CO6 3PT

- 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 The Paw Patch for a full award of costs against Colchester City Council.
 - The appeal was against the refusal of planning permission for the *change of use of agricultural field to dog walking field*.
-

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 Guide (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. It is common ground between the applicant and the Council that the latter failed to upload the consultation response from the Local Highway Authority (LHA) during its assessment of the application. The applicant therefore submits that they were unable to respond to the LHA's concerns before the Council made its decision, and if they had, then the appeal would have been unnecessary because they could have submitted the Transport Statement at the application stage rather than the appeal. In this respect, the applicant seems to accept that further information was necessary.
4. There is nothing to suggest the views of the LHA could not have been sought by the applicant prior to an application being made. However, that does not mitigate for the Council's failure to publish a key consultation response. Indeed, the failure to upload the LHA's comments was a significant oversight. This is because the applicant would have been unclear of the context behind the Council's decision, the professional advice it had received and their prospects of success in a new application or appeal. Accordingly, the failure to upload the LHA's comments was unreasonable behaviour.
5. However, I am not conceived that it resulted in unnecessary or wasted expense at the appeal stage. This is because the Transport Statement does not adequately deal with the concerns relating to the absence of a speed survey and the visibility splay to the west being obscured by an elevated roadside bank. Accordingly, the indicators are that even if the applicant had been made aware of the LHA's comments, the application would still have been refused. Thus, an appeal would have been likely regardless of when the Transport Statement was submitted.

6. The Council's failure to seek professional advice from an Ecologist at the application stage was not unreasonable in this instance because the Council were correct, in my view, to refuse the application in the absence of a Preliminary Ecological Assessment (PEA). Natural England's Standing Advice is reasonably clear and easy to follow on this point. It assists non-specialists in scoping whether further information is required. In this instance, it is apparent that further information was necessary given the habitats around the appeal site. Indeed, the applicant submitted a PEA with the appeal so has conceded this point.
7. Furthermore, the applicant is professionally represented and therefore it was unnecessary to wait for feedback from the Council before consulting the standing advice and commissioning a Preliminary Ecological Assessment.
8. The Council did not seek the advice of an Ecologist when considering the PEA at the appeal stage. This was a potentially risky course of action as it could have amounted to unreasonable behaviour had I found against them. However, in this instance the flaws in the PEA are stark. Expert input is not required to identify these. Indeed, for the reasons set out in my decision letter the PEA is ambiguous and did not reach clear findings on important points. Accordingly, the Council pursuing its reason for refusal without expert input, and despite the submission of a PEA, was not unreasonable behaviour in this instance.

Conclusion

9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Graham Chamberlain
INSPECTOR