



Costs Decisions

Site visit made on 5 August 2025

by **Diane Lewis BA(Hons) MCD MA LLM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 February 2026

Costs application in relation to Appeal A Ref: APP/X2600/C/22/3310971

Land at Salhouse Road, Rackheath NR13 6LD

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Gamble Plant (Norfolk) Limited for a full award of costs against Norfolk County Council.
- The appeal was against an enforcement notice alleging a material change of use of Land to a sui generis use for recycling of Construction and Demolition Waste, the use comprising the deposit, storage, processing and transfer of the waste.

Summary of Decision: The application is refused.

Costs application in relation to Appeal B Ref: APP/X2600/W/22/3297911

Land south of Salhouse Road, Rackheath, Norwich, Norfolk NR13 6LD

- 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 Gamble Plant (Norfolk) Limited for a full award of costs against Norfolk County Council.
- The appeal was against the refusal of planning permission for a change of use to a sui generis use for the storage of top-soil, sub-soil, recycled construction materials, brick rubble, old fencing, green waste and concrete, and construction and demolition waste processing/recycling, the siting of mobile processing plant, offices, associated infrastructure and the construction of amenity bunds and landscaping.

Summary of Decision: The application is refused.

The applications

1. The applications for costs were made on 23 March 2023 as part of the original timetable for the appeals. They predated the supplementary and updated statements of case that were submitted in August 2025. The applications include a lot of background information about the history of the site, the processes leading to the submission and determination of the planning application and the issuing of the enforcement notice. The appellants' summary table of the grounds for claiming costs provides a framework for considering the applications, taking full account of the responses by Norfolk County Council (NCC) and the final comments of the appellant.

Planning Practice Guidance

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 PPG also states costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding and cannot be claimed for the period during the determination of the application. Nevertheless, all parties are expected to behave reasonably throughout the planning process. Behaviour and actions at the time of the planning application can be taken into account when considering whether or not costs should be awarded.

APPEAL A

4. The appellant is pursuing its application on procedural and substantive grounds. The procedural grounds refer to the provision of information by NCC and the timing of the service of the enforcement notice. The substantive grounds refer to NCC's assessment of the effects of the development and a failure of NCC to review its intention to issue a notice.
5. Local planning authorities have discretion to take enforcement action, when they consider it as expedient to do so, having regard to the development plan and any other material considerations (section 172 of the 1990 Act). Deciding if action would be expedient involves balancing the advantages and disadvantages of a course of action, based on planning considerations. The available grounds of appeal in section 174(2) of the 1990 Act do not include consideration of expediency. A challenge on the grounds of expediency to a Council's decision to issue an enforcement notice can only be made by way of judicial review. An Inspector has no jurisdiction to determine whether a local planning authority had complied with its obligation under section 172.
6. The appellant's costs application is considered within this context. Substantial elements of the claim in the procedural and substantive grounds concern the expediency and timing of taking enforcement action. Also, much of the appellant's narrative in the claim refers to the period before the appeal was made. These two areas include matters related to the expediency report, contact and discussion with the appellant's advisors and compliance with the enforcement protocol. The documentation shows NCC considered timing and regarded the issue of an enforcement notice and subsequent appeal as a way of resolving a fundamental dispute with the appellant on whether the waste imported to the site was authorised by the LDC. The expediency report covered a number of matters, including consideration of the Enforcement Protocol, development plan policy, reported harm and negotiations with the operator. Release of information regarding complaints has to be treated sensitively and with due caution.
7. The issues raised regarding the lawfulness of the appellant's use of the land are not straight forward, as indicated by the submissions in the appeal. The evidence on use has changed over time. In such circumstances a change in officer view may be expected and was not unreasonable. Matters related to the palisade fence are appropriately addressed through an appeal on ground (f). I agreed with NCC that the palisade fence was not permitted development. A local planning authority has the power to withdraw an enforcement notice at any time (section 173A(1)). NCC's position that the notice will be withdrawn if Appeal B succeeds is reasonable.

Conclusion

8. Unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

Decision

9. The application for an award of costs is refused

APPEAL B

10. The appellant claims NCC behaved unreasonably with respect to the substance of the matter under appeal. The main matters raised are: whether NCC failed to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis; refusing planning permission on a planning ground capable of being dealt with by conditions.
11. Planning permission was refused for a single reason that concerned the unacceptable adverse impact on landscape character and visual and residential amenity. A number of policies were taken into account and the policies cited in the reason correctly relate only to the harmful environmental impacts identified. The decision was contrary to officer recommendation but planning authorities are not bound to accept the recommendations of their officers. I have decided to dismiss the appeal, an indication the decision of the Committee was reasonable. The appellant's concerns about procedural aspects of the Committee meeting and decision-making do not come within the scope of unreasonable behaviour at issue in this costs application.
12. NCC's appeal statement explains and justifies the reason for refusal, with reference to the representations of interested parties and consultees and experience of the operational activity. The statement, and Committee minute, confirm the Committee took into account the technical reports submitted by the appellant and proposed mitigation. The Committee minute indicates the range of matters debated with opinions expressed against and in favour of the scheme. The onus is not on the planning authority to produce technical reports. The reports submitted by the appellant were considered and concerns identified. The appellant clearly disagrees with the conclusions of the Committee but the weight apportioned to protecting the amenity of residents is for the decision maker. The Committee's decision that a regulated all-year processing operation including a mobile crushing and screening plant would be more harmful than the lawful use was not an unreasonable judgement to make.
13. The submitted information indicates the waste site at Hockering is in a different type of rural environment to the appeal site, one which is not close to settlements. The planning balance on a proposed extension of a lawful waste site would not be comparable to the balance for the development on the appeal site. Any conclusions on consistency in decision-making from the Hockering development would not be well-founded.
14. The expediency of issuing an enforcement notice and the timing in relation to the determination of the Appeal B planning application are not directly relevant to this application for costs and have been addressed in the Appeal A costs application.

Conclusions

15. NCC has adequately substantiated the reason for refusal. It has not been demonstrated that the refusal of permission prevented or delayed development which should clearly be permitted.

16. Unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

Decision

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

Diane Lewis

INSPECTOR