



Costs Decision

Site visit made on 8 January 2026

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 10 March 2026

Costs application in relation to Appeal Ref: APP/Q4245/W/25/3373009 Cloud 9, Bow Green Road, Bowdon

- 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 Dr Z Alvi for a full award of costs against Trafford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of an Apartment-Home with six units and demolition of the existing house.
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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, Planning Practice Guidance¹ 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. I accept that the calculation of a supply of deliverable housing land requires significant time and resource. However, the Council should have reassessed its position following the publication of the Housing Delivery Test in December 2024 and could have done so prior to determining the planning application. If the Council had reassessed its supply at this time, it is reasonable to assume that the Council would not have been able to demonstrate a 5-year supply of deliverable housing land. The Council's failure to reassess its supply amounts to unreasonable behaviour.
4. Notwithstanding this, when determining the planning application, the Council was not in possession of a completed biodiversity metric calculation, the biodiversity value of onsite habitat, or confirmation of whether there was any irreplaceable habitat within the site. As such, the Council could not be certain that the statutory biodiversity gain condition was capable of being successfully discharged and the Council could not have granted planning permission. Therefore, the applicant has not incurred an unnecessary or wasted expense. I note that the need to submit information relating to the statutory biodiversity gain condition is disputed by the applicant, I will return to this matter later in my decision.
5. When undertaking the planning balance, I am satisfied that the Council provided clear, intelligible, and sufficient reasoning within both its Officer's Report and Statement of Case, in accordance with established caselaw². For reasons set out in

¹ Planning Practice Guidance, Appeals, Paragraph: 028, Reference ID: 16-028-20140306

² R (on the application of CPRE Kent) v Dover DC [2017] UKSC 79; and South Buckinghamshire DC v Porter [2004] UKHL 33.

a separate Appeal Decision³ (Alternative Appeal) that I have issued for a similar development at the same site, I agree with the Council's assessment that the site is not wholly previously developed land. As such, the Council was correct to not apply paragraph 125 of the National Planning Policy Framework.

6. When determining the planning application, the Council was non-committal on whether the development of plots 3 and 4 had commenced. However, it is clear from the evidence provided that this development has commenced. Planning permission⁴ for Plot 3 specified that the existing dwelling on the appeal site would be demolished. However, the existing dwelling has not yet been demolished and the description of development for the appeal proposal includes a reference to the existing dwelling being demolished. As such, it was reasonable for the Council to conclude that the proposal would provide a net increase of 5 dwellings.
7. Also, the applicant contended that the Council should have assessed the effect of windows within the existing dwelling. This conflicts with their view that the net dwelling calculation should not take account of the existing dwelling. If I were to conclude that the Council has acted unreasonably on this matter, I would also have to conclude the applicant has too.
8. The Council's approach to biodiversity gain differs from the Alternative Appeal but it maintains in both appeals that an exemption does not apply. The approach taken in this appeal to identify this matter as a reason for refusal reflects the applicant maintaining that an exemption to providing a biodiversity gain applies in the Alternative Appeal. Therefore, a different approach is justified. As set out within the Appeal Decision, the Council's validation of the planning application was not an acceptance that the proposed development was exempt from providing a biodiversity gain. I note that the applicant continues to assert that the development is exempt from providing a biodiversity gain. Further engagement on this matter during the determination of the planning application is unlikely to have resolved the issue. As such, the Council's lack of correspondence on this matter is reasonable.
9. The Council did not compel the applicant to submit information relating to the biodiversity value of the appeal site. Rather it has maintained that the statutory biodiversity gain condition should apply. This is a matter I agree with the Council on, and it does not amount to unreasonable behaviour.
10. The Council acted unreasonably in not publishing the applicant's full appeal submission on its website. The additional information submitted was evidence to address the Council's concerns rather than an amendment to the proposal. This has resulted in the determination of the planning appeal being delayed. However, the appeal has been subject to further reasonable and legitimate delays outside of the control of the Council. Accordingly, any additional expense incurred by the applicant due to the delays in the determination of the appeal, are not entirely related to the Council. There is no substantive evidence that delays caused only by the Council have led to the applicant incurring unnecessary or wasted expense.
11. The Greater Manchester Ecology Unit did not comment on the additional information submitted with the appeal. However, it was reasonable for the Council to maintain the second reason for refusal as it is still a matter of dispute between

³ Appeal Ref. APP/Q4245/W/25/3367833

⁴ Appeal Ref. APP/Q4245/W/20/3250863

- the parties whether an exemption to the statutory biodiversity gain condition applies.
12. The Council notes that it was an error to not acknowledge that planning permission had expired in relation to the development of Plot 5. The Council acted unreasonably by not acknowledging this and maintaining the first reason for refusal in full. Nonetheless, the removal of the development within Plot 5 as a relevant consideration, does not reduce the extent of overlooking by 25%. Instead, some receptors would be more affected by the proposed development than others. In this instance, the majority of the harm identified by the Council to the development to the south would be to Plot 4 due to its proximity to the side elevation of the proposed development and the orientation of plots. Therefore, I am satisfied that the Council would have refused planning permission even if it had acknowledged that the planning permission for Plot 5 had expired. Accordingly, the applicant did not incur an unnecessary or wasted expense as a result of the Council's unreasonable behaviour.
 13. Although I disagree with the Council's assessment, its approach to assessing obscure glazing is consistent between the planning application and appeal, and with other decisions put before me. It is a matter of judgement whether obscure glazing is acceptable for each individual window. Whether other development sets a precedence is a matter for the decision maker to consider and ascribe weight to. The acceptance of obscure glazing on other developments within the wider development site, holds little relevance to the proposed apartment block which has a unique design.
 14. The Council's concern with the gymnasiums being used as a bedroom is not unfounded. Although I disagree with the Council's assessment, it set out clearly why it had these concerns which was supported by the application plans. Similarly, the Council did not act unreasonably in concluding that it would be difficult to enforce a condition specifying the use of the rooms. Likewise, it was reasonable to conclude that the internal layout of the proposed dwellings could be altered once the development has been constructed without the need for planning permission.
 15. There is no evidence before me that the Council has not been consistent in its approach to decision making. As such, it has acted in accordance with the North Wiltshire DC judgment⁵.
 16. Finally, for the reasons given above, the Council did not delay or prevent a development which should have clearly been permitted. Overall, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Hobbs

INSPECTOR

⁵ North Wiltshire DC v Secretary of State for the Environment [1993] 65 P & CR 137.