



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/25/3367833 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 a '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. The Officer's Report was drafted on 12 December 2024, a revised version of the National Planning Policy Framework (the Framework) was published on the same day. The Officer's Report explicitly refers to this version of the Framework. I am therefore satisfied that the Council considered the correct version of the Framework when issuing its decision.
4. 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.
5. The applicant has indicated that planning permission for the proposed dwelling within Plot 5 has now expired. Without providing evidence to the contrary, it was unreasonable for the Council to maintain that the appeal proposal would have a harmful effect on the living conditions of future occupiers of Plot 5.
6. Notwithstanding the above, 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

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

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 in submitting the appeal.

7. A lack of information relating to biodiversity net gain was not a reason for refusal for this planning application as additional information was not requested. However, it was reasonable not to request additional information as the Council was refusing the planning application based on what it considered to be insurmountable reasons for refusal. 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 net gain. The Council's approach to this matter is reasonable and does not represent introducing a new reason for refusal as part of an appeal.
8. There is no substantive evidence that the Council did not consider the presumption in favour of sustainable development when determining the planning application. Albeit the failure to reassess the supply of deliverable housing land infected its decision making. As such, it was reasonable for the Council to reconsider the provision of paragraph 11(d)(ii) of the Framework within its Statement of Case.
9. A previous Inspector concluded that the presumption in favour of sustainable development applied to a neighbouring development², despite harm to the character and appearance of the area. However, it is legitimate for the Council to conclude otherwise for the appeal proposal. Whilst the proposals may be similar, the weight ascribed to the benefits and harms will vary between proposals.
10. 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 caselaw³. As set out within the Appeal Decision, I agree with the Council's assessment that the site is not wholly previously developed land. As such, the Council was correct not to apply paragraph 125 of the Framework.
11. The existing dwelling is much further away from 5 and 7 Bow Green Road (Nos 5 and 7) than the proposed development. As such, there is minimal benefit referring to the effect of the existing development on the living conditions of occupiers of Nos 5 and 7 when assessing the effect of the proposal. Moreover, as the existing dwelling is proposed to be removed as part of the development to the south, it was reasonable not to assess the effect of the existing dwelling on the living conditions of future occupiers of the development to the south. Consequently, the Council's reasoning was sufficient on this matter.
12. Whilst I acknowledge the phrase "site frontage" usually refers to the width of the plot fronting the road, when read as a whole the Council's reasoning in relation to the entrance ramp was sufficiently clear. The Council does not deny that the entrance ramp would be sunken and would be behind a gate. Accordingly, the applicant's contention that the Council's characterisation inflates the harm is unfounded. The difference in opinion between the Council and the applicant is a matter of planning judgement. It has not been demonstrated how a condition could

² Appeal Ref. APP/Q4245/W/20/3250863

³ R (on the application of CPRE Kent) v Dover DC [2017] UKSC 79; and South Buckinghamshire DC v Porter [2004] UKHL 33.

- overcome the harm caused by the proposed entrance ramp. Only a fundamental change to the proposal would have addressed this harm.
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. The Council's consideration as to whether the plans specify the windows are obscurely glazed or not has not affected its decision making.
 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. The Framework encourages local planning authorities to work proactively with applicants. In this case, the Council had fundamental concerns that could not be overcome. Therefore, further engagement would not have been efficient. The Council could have informed the applicant that it was going to refuse the planning application prior to issuing the decision which may have stopped the applicant from continuing to engage with the local highway authority. However, there was only a short period of time between the Officer making the decision and the decision being issued. Therefore, the Council has not acted unreasonably in this regard. Furthermore, the Council determining the planning application within the statutory timeframe should be commended and is not an example of unreasonable behaviour.
 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