



Costs Decision

Site visit made on 16 February 2026

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2026

Costs application in relation to Appeal Ref: APP/R1010/C/25/3360850 Land to 3 Park Street (also known as South Lodge), Barlborough, Chesterfield S43 4ES

- 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 Mr Max Paul Telero for a full award of costs against Bolsover District Council.
 - The appeal was against an enforcement notice alleging building operations comprising 2 freestanding pergola structures and the erection of a boundary fence.
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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 appellant contends that the Council has behaved unreasonably by failing to provide clear guidance as to what would be deemed an acceptable solution to the matters referred to in the notice; failing to adhere to procedural requirements expected of a public authority, including timely and effective communication; and failing to engage in meaningful discussion. The applicant also claims that the Council has failed to meet its obligations under the Public Sector Equality Duty (PSED) set out under the Equality Act 2010.
4. As I understand, the unreasonable behaviour referred to by the appellant relates to matters which occurred leading up to the serving of the Enforcement Notice (EN) and the lodging of the appeal. The PPG¹ sets out circumstances where the local planning authority's handling of the EN prior to the appeal might lead to an award of costs. It indicates that there is a risk if it is concluded that the appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate.
5. The concerns regarding the Council's behaviour, as set out in the applicant's costs case, do not relate to inadequate investigations. Moreover, I note that the appeal was not lodged on any of the legal grounds (b), (c) or (d) where the adequacy of the investigations might be scrutinised, which strongly suggest that the applicant does not consider that the investigations carried out by the Council were deficient.

¹ Appeals - Paragraph 048 Reference ID-16-047 -20140306

6. Whilst the examples given in the PPG are not exhaustive, the applicant makes no reference to the types of behaviour set out in the guidance that may give rise to an award of costs. Therefore, whilst I note the applicant's frustrations, I find that the matters that the applicant considers amounts to unreasonable behaviour on the part of the Council are not relevant to, or justify, an award of costs. Furthermore, considering my Formal Decision on the appeal it follows that I cannot conclude that it could have been avoided if the Council behaved differently prior to the issuing of the EN.
7. Prior to taking action, the Council are required to have due regard to the PSED. Having 'due regard' is understood to mean consciously thinking about the three aims of the Equality Duty as part of the decision-making process. There is no reference to PSED in the officer report that gave notice of the delegated decision to take enforcement action, or reference to it within any of the correspondence from the Council that is before me. In addition, no reference is made to such matters within the Council's statement of case.
8. As such, based on the evidence before me, there is no indication that the Council had a proper appreciation of the potential impact of the decision to take enforcement action on equality objectives and the desirability of promote them. I consider that this matter amounts to unreasonable behaviour. Nonetheless, it is fair to consider that even if the Council carried out its duty this would not have changed its decision to issue the enforcement notice and avoided an appeal. I am not persuaded, therefore, that this has caused the appellant unnecessary expense in the appeal process.
9. I am not entirely certain if the appellant is also challenging the Council's decision that it was expedient to take enforcement action. If that is the case, it should be noted that the courts have held that any challenge as to whether it was expedient for a Council to issue the notice must be pursued by way of judicial review. Therefore, I do not have jurisdiction to determine whether the Council complied with section 172 of the Town and Country Planning Act 1990.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elaine Moulton

INSPECTOR