



Costs Decision

Hearing held on 11 March 2026

Site visit made on 11 March 2026

by T C King BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2026

Costs application in relation to Appeal A: APP/M3645/C/25/3368581 and Appeal B: APP/M3645/C/25/3368582

Land to the south of Woodlands, Weatherhill Common, Smallfield, Horley, RH6 9JF

- 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 Mr Patrick Connors for a full award of costs against Tandridge District Council.
 - The appeal was against the decision of the Council to issue an enforcement notice.
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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. I have found that the enforcement notice, for the reasons given is invalid, as it is incapable of correction without causing injustice to the main parties involved. However, from the questions I put to the Council witness at the Hearing, this is not the view of the Council and, although he indicated it was still open to the Council to amend the enforcement notice, he confirmed that the Council was prepared to run with the notice as it stood.
4. Here, it is important to note that the enforcement notice is not a nullity. Its content covers everything required under s173 of the 1990 Act (as amended), but its invalidity arises from its attached plan, which is incorrect for more than one reason, and also the failure to acknowledge the fact that a section of the land targeted already has planning permission for hardstanding laid; essentially the operational development which the Council considers is unlawful. Accordingly, when factoring in these matters, the notice's construct is flawed.
5. That said, it would be clear to any recipient what the enforcement notice requires and the Connors' instructed planning consultants to argue their case which due to my findings, exposed the weaknesses of the Council's position given the fact that my first task is to attempt to put the notice on a proper footing, should it need particular attention.

6. Turning to correspondence between the parties as to the planning position I note that there was a series of e-mails exchanged on 15 September 2025 whereby, in a nutshell, the appellants' agents requested that the enforcement notice be withdrawn to allow for a planning application to be submitted, presumably in order that matters might be regularised. I would imagine that this was to protect their clients' position in the face of the Council potentially invoking its powers under s70 C.
7. The Council's stance at that point appeared to be if the enforcement notice needed amending, dialogue should take place between the parties to decide what was necessary in this regard. However, the agents indicate that as this was just prior to the date on which the Statement of Case was required, it was too late in the day. As such, an impasse resulted and I note that the Council was of the opinion that the plan attached to the notice only needed amending insofar as land belonging to Twynways should be excluded, with paragraph 5.15 of the Council's Written Statement referring to this as a 'minor correction'.
8. This remained the Council's position and at the Hearing it seemed to me that the Council's witness was unaware as to the plan's inaccuracies. Indeed, I am of the opinion that these only became apparent to him at the site visit which followed. This suggests a lack of diligence by the Council, although I consider that this was largely due to the absence of meaningful communication between the parties prior to the Hearing. This is regrettable, as earlier dialogue would have likely ironed things out, particularly with regard to the inaccuracies.
9. In the circumstances, the Council persisted with the enforcement notice as issued. Irrespective, of my findings, though, I am of the view that the appeal would have still proceeded. As regards the legal grounds advanced, service of the notice was an issue, which the Council insists was correct. A distinction on the plan of the area of land which already enjoyed planning permission would have obviously clarified matters, rather than the Council witness merely referring to a breach having occurred within the land identified. Also, the inclusion of Redcot's curtilage was a mistake.
10. The non-legal grounds followed on as a consequence. Obviously, blame must be placed with the Council but, to me, this was not a complex case and it would have taken relatively little time for the appellants' agents to grasp the planning position and, moreover, the weaknesses in the Council's case arising from the enforcement notice's shortcomings.
11. Given the above, as I have concluded that the appeal would have ensued due to the distance between the parties, I am not convinced that unreasonable behaviour resulting in significant unnecessary or wasted expense, as described in the PPG, has been demonstrated.
12. I therefore refuse the application for an award of costs.

TC King

INSPECTOR