Planning Inspectorate

Costs Decision

Site visit made on 4 February 2026

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2026

Costs application in relation to Appeal Ref: APP/K0235/C/25/3372991
Top Farm, The Lane, Wyboston, Bedfordshire MK44 3AS

- The application is made under the Town and Country Planning Act 1990 (as amended)(the Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Danny ward for a full award of costs against Bedford Borough Council.
- The appeal was against an enforcement notice alleging the erection of a detached outbuilding.

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. The applicant submitted the costs application on the basis that an approved planning permission relating to the subject building has been granted, which, the applicant suggests, has led to them being unable to appeal under grounds (a) and (g).

3. It is suggested that the Council should have withdrawn the enforcement notice at an early stage and carried out adequate investigation, taking the new permission into account. The applicant initially advanced their costs application on the basis that the enforcement notice is withdrawn. However, following the Council's confirmation that it does not intend to withdraw the notice, the applicant confirms that they consider the enforcement notice should be quashed and costs awarded.

4. Where an enforcement notice is issued in respect of land in England on or after 25 April 2024, section 174(2A)(b) and (2AA) of the Act provide that an appeal may not be brought under ground (a) if the enforcement notice was issued at a time after the making of a related application, unless that application has ceased to be under consideration and the enforcement notice was issued after the end of the period of two years beginning with the day on which the application ceased to be under consideration.

5. The Council states that a ground (a) appeal would likely be barred, as an appeal against the decision on the related retrospective application, reference 22/02164/S73A, was dismissed within the last 2 years prior to the issuing of the Notice. I have been provided with a copy of the decision letter, reference APP/K0235/W/23/3333274, which was made under section 78 for the change of use of agricultural land to residential use and erection of detached garage.

6. A split decision was made in that case, and the appeal was dismissed insofar as it related to the erection of the detached garage. In a procedural matter, the Inspector confirmed that the buildings (two appeals were before the Inspector) have been erected and their respective positions, appearances and internal layouts appear to match the submitted drawings. From the evidence, it seems likely that this appeal concerned a related application.

7. The appeal regarding that application was issued on 10 September 2024. The enforcement notice was issued before the period of two years beginning with the day on which the application ceased to be under consideration and so an appeal under ground (a) would have been precluded. It is that application, reference 22/02164/S73A, which has led to the applicant being unable to appeal under ground (a), not the granting of subsequent schemes for a building (either on appeal or by the Council). Furthermore, the applicant has been able to appeal under ground (g) and has been able to respond to the Council's suggestion that the enforcement notice is varied to account for the subsequent planning permission.

8. It is not clear how amending the enforcement notice to give the applicant the option of modifying the building to comply with planning permission granted after the enforcement notice was issued would prejudice the applicant under ground (a) or (g). Such matters would be considered under ground (f), not (a), since ground (a) is made on the basis that planning permission ought to be granted for the matters stated in the notice as constituting a breach of planning control, and I may only grant planning permission in relation to the whole or any part of those matters.

9. Although the Council has granted planning permission for a building, that scheme had a flat roof and is not the same as the appeal scheme that was before me and, for the reasons given in my decision letter, I have found that the appeal under ground (c) should fail. As also set out in my decision letter, I have considered the planning permission, reference 25/01342/S73A, under ground (f) but do not consider it necessary to vary the notice in the way suggested by the Council because of the provisions of section 180 of the Act, which deals with the situation where planning permission is granted after an enforcement notice is issued.

10. Were the Council to withdraw the notice, there would be nothing to compel the applicant to modify the building to accord with the approved details. The enforcement notice protects the Council's position and ensures that the applicant either modifies the building to accord with one of the planning permissions granted or demolishes the building entirely. The Council was not obliged to withdraw the notice following the approval of that planning permission and I do not believe that the Council has been unreasonable in declining to do so.

11. The applicant makes reference in their costs application to the imposition of a condition that does not meet the guidance in the National Planning Policy Framework. However, the appeal concerned the issue of an enforcement notice, not a grant of planning permission and so its relevance is not clear. The Council has not unreasonably defended the appeal and, as can be seen from my decision letter, subject to a variation, I have dismissed the appeal and upheld the enforcement notice.

Conclusion

12. Thus, for the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Savage

INSPECTOR