
Costs Decision

Site visit made on 27 April 2026

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 APRIL 2026

Costs application in relation to Appeal Ref: APP/W0734/C/24/3354109

Land at 73 Cambridge Road, Linthorpe, Middlesbrough, TS5 5NL

- 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 Nadeem Akram for a partial award of costs against Middlesbrough Council.
 - The appeal was against an enforcement notice alleging the material change of use of land from sport field and primary open space to residential garden, and the erection of fencing to enclose the Land.
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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 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. Awards against a local planning authority (LPA) may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The appellant considers that the LPA has acted unreasonably in so far that in its statement of case it included an assessment of the deemed planning application against a policy contained in the draft Middlesbrough Publication Local Plan 2025 (Draft 2025 LP). This policy was not included in the reasons for issuing the notice.
4. While it is the case that the relevant policy in the Draft 2025 LP was not specifically outlined in the reasons for issuing the enforcement notice, it is nonetheless reasonable that the Council did refer to such a policy, as a material planning consideration, in its statement of case. While I acknowledge that the evidence is that Draft 2025 LP is not yet at adoption stage, it is nonetheless a material planning consideration that has some weight in decision making terms. Indeed, paragraph 49 of the National Planning Policy Framework 2024 (the Framework) states that *'local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight that may be given)'*.
5. The appellant had an opportunity to respond to the LPA's statement of case at final comments stage and, moreover, it was not in any event unreasonable for the LPA to substantiate its enforcement notice position with reference to a relevant and associated material consideration and in the context of paragraph 49 of the Framework. While the draft policy was not in itself material to the outcome of the appeal, given the conclusion I reached against the policies contained in the

adopted development plan as a whole, and the Framework, it is not the case that the LPA displayed unreasonable behaviour in respect of this matter. As no unreasonable behaviour has been identified, I therefore find that the appellant was not put to unnecessary or wasted expense in the appeal process.

Conclusion

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

D Hartley

INSPECTOR