Planning Inspectorate

Costs Decision

Site visit made on 13 April 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 01 May 2026

Costs application in relation to Appeal A Ref: APP/R1010/C/24/3345082 and Appeal B Ref: APP/R1010/C/24/3345083.
Land South West of Beaumont Cottage, Hilcote Lane, Hilcote, Alfreton, DE55 5HR

- 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 David and Mrs Julie Hunt for a full award of costs against Bolsover District Council.
- The appeals were against an enforcement notice alleging the material change of use of The Land from agricultural use to a dog training and exercise facility (sui generis) and the siting of an associated caravan; and unauthorised building and operational development comprising the erection of associated 1.8m high metal perimeter fencing and timber storage buildings.

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 applicants seek a full award of costs in respect of the following matters arising at appeal. Firstly, they consider that the issuing of an enforcement notice was unreasonable procedurally. They assert that the Council understood that the use of the land for dog training had ceased. In addition, the Expediency Report indicates that the enforcement action is directed to non-compliance with a condition attached to the grant of planning permission for the keeping of farm animals on the land which the Council had recognised as being unlawful. That condition had sought the removal of operational development and other paraphernalia associated with the dog training. Secondly, the applicants contend that the enforcement notice was also unreasonable for substantive reasons. The use of the land for dog training had ceased and the Council could not reasonably argue that the operational development has a harmful effect on the character and appearance of the area. In particular because the Officer Report for the Section 73 application to remove conditions 7 and 11 states that the fields are well screened from the public domain and the other paraphernalia does not cause visual harm to the setting of the rural area.

4. PPG advises that a local planning authority may be at risk of a procedural award of costs where, for example, they do not carryout adequate prior investigations, or if it is concluded that an appeal could have been avoided by more diligent investigation

that would either avoided the need to serve the notice in the first place, or ensured that it was accurate[1].

5. It can be seen from my decision that an appeal on ground (b) cannot succeed simply on the basis that the alleged activities had ceased or the structures had been removed. An enforcement notice is often not issued until sometime after the breach was detected and as such the appellant may make changes to the site or curtail their activity. However, it is not unreasonable for the Council to issue an enforcement notice after those activities have ceased and to prevent those activities and/or operations recommencing. In this case it is clear from third party correspondence that there was a concern that dog training could be continuing the Land and it was not unreasonable for the Council to issue the enforcement notice.

6. I understand that the Council has granted consent to remove Conditions 7 & 11 attached to a grant of planning permission for the use of the Land for the keeping of farm animals (LPA Ref: 23/00163/FUL). Those conditions were deemed to be neither reasonable nor necessary having regard to the development permitted. However, as set out in the Council's response to this Costs application, the grant of permission to remove those conditions did not render the operational development on the Land lawful. It was the Council's view that the operational development remained a breach of planning control which, for the reasons set out in the notice, they considered expedient to remedy. The Council did not serve a breach of condition notice, but alleged in the enforcement notice a material change of use and operational development with a view to ensuring that the dog training use permanently ceased, and the caravan associated with that unauthorised use was removed from the site, together with the removal of the fencing and timber buildings. That was not unreasonable behaviour.

7. In terms of a substantive award of costs, a local planning authority may be at risk where they fail to produce evidence to substantiate the reasons for issuing the notice on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis[2].

8. The applicants have drawn my attention to the Council Officer's Report which dealt with the application to remove conditions 7 & 11 of planning application Ref: 23/00163/FUL. However, in that case the assessment on the impact on the countryside was in relation to a condition which removed permitted development rights to erect new fences, gates or walls and a condition which sought to remove "other paraphernalia" from the Land. It was thus not directly related to the development the subject of this appeal.

9. Nevertheless, the enforcement notice clearly set out why the Council considered it expedient to issue the notice and included all the policies in the development plan which are relevant to their decision to issue an enforcement notice. It can be seen by my decision that I found that the harm identified to the character and appearance of the countryside from the timber building could be mitigated by a condition. However, that decision was a matter of professional judgement, and I am satisfied that the Council adequately substantiated its reasons for issuing the notice in their statement of case and the appeal could not have been avoided.

[1] PPG: Pragraph:048 Reference ID: 16-048-20140306.
[2] PPG: 049 Reference ID: 16-049-20140306.

10. I therefore conclude unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated, and an award of costs is therefore not justified.

Elizabeth Pleasant

INSPECTOR