



Costs Decision

Site visit made on 14 April 2026

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 May 2026

Costs application in relation to

Appeal A Ref: APP/X1118/C/25/3371748

Appeal B Ref: APP/X1118/C/25/3371749

Land Lying to the South of, Greenacres Bratton Fleming, Barnstaple , EX31 4SG

- 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 James Fielder and for a full award of costs against North Devon District Council.
 - The appeal was against an enforcement notice alleging the construction of a building and the laying of a hardstanding and hardcore.
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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.

The Case for Costs

3. The Appellants say that the Council's handling of their prior notification application was flawed; it was accepted as valid and that, as no objection was received within 28 days, approval was given. Thus, the issuing of a Notice in respect of the development was wrong. They go on to say that the Class E approval overrides the terms of the Local Plan policies that the Notice referred to. Their problems were compounded by the inconsistent approach of the Council that described the enforcement case as "unacceptable" and that Council correspondence referred to one party only. They also say that as the Notice required the removal of other chattels, it lacked precision and was not proportionate; and that it did not substantiate its allegation regarding the lack of a forestry business operating from the site.
4. This amounted to unreasonable behaviour that led them to expend "substantial time" and caused them disruption, leading to unnecessary expense in fighting the appeal.

The Council's Response

5. The Council say that they sent an email on 16 October saying the application for prior approval was invalid as the development had commenced. This was two days

after the application was received. The Appellants were, it says, given the choice of withdrawing the application and having a refund or, essentially, of using what had been submitted towards a planning application for the development. It says that the Appellant asked for a refund. According to the Council, this was subsequently paid and the application was withdrawn. This, it says, had nothing to do with the appeal.

6. The reference to “unacceptable” on the Council’s online records arose from a site visit by a Council officer, who determined the development to be unacceptable. The Council acknowledges that there is an error in the description of photographs in Annex 3 to its appeal statement, but that this would not have been prejudicial.
7. Its reference to other items in the Notice, and the requirement for their removal, was normal and legal. Overall, the Council says that the Notice was reasonable and proportionate. As there was no planning permission for the building, the use of policies in the Notice was correct. It also says that the allegations it made were substantiated. Finally, it says that it served the Notice correctly and that where correspondence was sent only to Mr Fielder, this was because his was the lead appeal.

My Findings

8. Neither party submitted copies of the correspondence they refer to in respect of the registration of the prior notification application, nor of the Council’s subsequent decision that it was invalid. The Appellants do not contest that the Council sent an email on 16 October. Their response was that they have no record of receiving a refund and that they did not receive “formal written confirmation within the statutory 28-day period”. This is not a denial that it was sent.
9. I am unsure what the Appellants mean by “formal written confirmation”. The GPDO requires the Council to notify an applicant of its decision within 28 days of the date of the application, but does not specify any particular format. Therefore, an email would suffice. That of 16 October informed them of the Council’s decision: that the application was invalid as the building work had commenced and, therefore, they could not rely on Class E permitted development rights. The question of whether the fee was refunded is not a matter for me, and cannot be used as the grounds for an award of costs against the Council.
10. If the Council felt that there was no evidence of a forestry business being run from the land, then it was entitled to include this as a reason for issuing the Notice. Had there been a Ground (a) appeal, in which the planning merits of the case would have been assessed, the Council would have been expected to justify that argument. As there was not, there was no need for it to take the matter any further.
11. The Council’s error in annotating its submitted photographs was a simple mistake that would have had no meaningful consequences. It was not unreasonable. I find similarly in respect of the Council’s online description of the enforcement case and that some correspondence only referred to one party. No injustice was caused, the actions were not unreasonable and no unnecessary expense was incurred.
12. Overall, I find that, taken either individually or cumulatively, the Council’s actions did not amount to unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance.

R Curnow

INSPECTOR