



Costs Decision

Site visit made on 18 March 2026

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2026

Costs application in relation to Appeal Ref: APP/T0355/W/25/3373873

The Walled Garden, Sutton Road, Cookham, Maidenhead SL6 9QZ

- 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 Simon Foster for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of the Council to grant planning permission for the change of use of land from agriculture to equestrian. Erection of stable building, associated hardstanding and floodwater compensation works. (Part Retrospective).
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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. In support of the appeal, the applicant submitted new evidence that was not before the Council at the time the application was determined. This evidence included a BNG small site metric, a habitat management and monitoring plan and an addendum to the Flood Risk assessment (FRA).
4. In response to the additional information, the Environment Agency (EA) indicated that its previous concerns related to the effect of the development on climate change, flood risk elsewhere, and flood resistance and resilience had been overcome. Nevertheless, the EA's objection to the scheme was maintained because of a failure to satisfactorily demonstrate that a sequential approach had been taken to the siting of the most vulnerable development on land at the lowest risk of flooding. That being the case, it was not unreasonable for the Council to continue to defend its flood risk reason for refusal of the scheme. Consequently, the Council's position did not result in the appellant incurring unnecessary or wasted costs at the appeal stage.
5. In light of the new evidence that was provided in support of the appeal, it was not unreasonable for the Council to alter and develop its case in respect of the second reason for refusal of the application. Although the consultation response provided in appendix 3 of the Council's statement indicates that the BNG information provided is sufficient to overcome the related reason for refusal, this does not amount to the Council's withdrawal of this reason for refusal. Instead, and while I reached a different conclusion from the Council on whether the biodiversity gain condition as

- set out at Schedule 7A of the Town and Country Planning Act 1990 - as amended, is capable of being successfully discharged in respect of the appeal scheme, the Council provided adequate justification for its view that a section 106 agreement would be required.
6. Although the consultation response at appendix 3 of the Council's statement also identified concerns regarding the effect of the scheme on protected or priority species, this matter was addressed by the Council within its Officer Delegated Report, and it did not subsequently form a reason for the refusal of the application. That being the case, the Council has not sought to introduce a further reason for the refusal of the application. Furthermore, and in light of the very limited evidence provided in support of the appeal in respect of protected species, the reference to them in appendix 3 of the Council's statement has not placed an unreasonable or unnecessary burden on the applicant.
 7. I understand that the outcome of the application will have been a disappointment to the applicant. The failure of the Council to engage constructively with the applicant following the refusal of the application is also likely to have caused some frustration. However, in determining the application, the Council clearly outlined and justified its concerns about the scheme. It was then the applicant's decision to submit an appeal supported by additional/updated evidence rather than to attempt to overcome the council's concerns by the submission of a new updated application.
 8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

V Simpson

INSPECTOR