



Costs Decision

Site visit made on 15 May 2026

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2026

Costs application in relation to Appeal Ref: APP/F2360/C/25/3364602 Land at Victorian Plumbing, Sustainability Way, Farington Moss, Leyland, PR26 6TB

- 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 Victorian Plumbing Ltd for a full award of costs against South Ribble Borough Council.
 - The appeal was against an enforcement notice alleging without planning permission, the erection of a metal wire fence and gates ("the Fence"), in excess of 2.0 metres high on 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 (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 application for costs is made on the substantive grounds that the Council behaved unreasonably prior to the appeal, by proceeding to take enforcement action after being advised the footpath/cycleway was not a Public Right of Way (PRoW), that the 2.4m high fencing and gates could be replaced with 2.0m high fencing and gates, which would benefit from deemed planning permission under Class A, Part 2, Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), and that an application could be made for the development. It is alleged that the Council also failed to respond to correspondence, including legal advice, or to effectively engage with the appellant.
4. It is also stated that the Council continued to behave unreasonably after the appeal was lodged, by failing to adequately substantiate its actions, having identified no harm from the appearance of the development, and relying primarily on the obstruction of a footpath/cycleway, which it accepts is not a PRoW and is privately owned and maintained by the appellant.
5. Although I have not been provided with a copy of the legal advice referred to, the evidence before me indicates that there was engagement between the main parties, in which various options were explored, albeit no positive agreement was reached. However, having accepted that a breach of planning control had occurred, the Council's indication that it would be unlikely to support an application to retain the development in its current form is not justification for neither remedying the breach nor submitting an application to regularise it, within the 11 months between

the breach of planning control being brought to the appellant's attention and the enforcement notice being served. I see no reason why a notice would have been served whilst an application or subsequent appeal were pending.

6. The Council accepted the appellant's fallback position but afforded this only moderate weight. Balancing and weight are matters for the decision maker and although I have taken a different view, the Council was entitled to give more weight to planning policies than the fallback position and other considerations. This was not entirely unreasonable given that the footpath/cycleway had been provided in accordance with the approved drawings, had been available for use by members of the public and that its use had subsequently been restricted by the siting of the new fencing and gates, which it is undisputed require planning permission due to their height. Moreover, the fallback option of reducing the height of the fence would seem to go against the appellant's primary argument that the fenceline position was altered to increase safety and security.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Bartlett

INSPECTOR