



Costs Decision

Hearing held on 28 April 2026

Site visit made on 28 April 2026

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2026

Costs application in relation to Appeal A Ref: APP/J3720/X/25/3375547

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Gregory Besterman for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the proposed implementation of Class Q prior approval 22/01886/COUQ.
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Appeal B Ref: APP/J3720/W/25/3376327

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- 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 Gregory Besterman for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use of an agricultural building into a larger residential dwelling (C3) and associated building operations under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO) without complying with conditions attached to planning permission Ref 22/01886/COUQ, dated 26 August 2022.
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Appeal C Ref: APP/J3720/W/25/3376853

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- 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 Gregory Besterman for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of planning permission for the change of use of an agricultural building into 2 no. dwellinghouses (C3) and associated building operations under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
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Appeal D Ref: APP/J3720/W/26/3377907

Tallifields, Brailes Road, Aylesmore, Warwickshire CV36 5EJ

- 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 Gregory Besterman for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application planning permission for conversion of agricultural building to single dwelling.
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Decision

1. The applications for an award of costs are allowed in the terms set out below.

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 outcome of the appeals was largely dependent on my finding as to whether the agricultural building on the adjacent land was permitted development under Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO). If it was not permitted development then the Class Q prior approval reference 22/01886/COUQ would be extant. If the permission was found to be extant, there is no dispute that Appeal B would have been unnecessary.

Appeals A and B

4. Condition A.2(2)(v) of Part 6, Class A of the GPDO, states '*the erection, extension or alteration of a building... is permitted by Class A subject to the following conditions—...the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out— (aa) where prior approval is required, in accordance with the details approved; (bb) where prior approval is not required, in accordance with the details submitted with the application.*'
5. In considering whether the adjacent agricultural building complied with this condition, the Council assessed whether it would be expedient to take enforcement action against building works not carried out in accordance with the approved or submitted details. However, this is not the test required by Condition A.2.
6. The correct test is whether the building was constructed in accordance with the approved or submitted details and, if not, whether any changes were agreed in writing by the Council. It is common ground that the building was not constructed in accordance with the details submitted, and that the changes were not approved in writing. It follows that the development is not permitted development.
7. The Council's reliance on an expediency test introduced an additional and irrelevant consideration. In doing so, it implicitly acknowledged a breach of Condition A.2 but chose not to pursue enforcement action. This amounts to an incorrect application of the GPDO and, therefore, constitutes unreasonable behaviour. The applicant drew this error to the Council's attention, yet the Council maintained its position.
8. Notwithstanding the Council's stance, the applicant took reasonable steps to maintain the extant permission under Class Q reference 22/01886/COUQ, including submitting an application to discharge conditions and undertaking excavation works to the footings.
9. Had the Council correctly applied Condition A.2 and concluded that the prior approval remained extant, it is likely that the discharge of conditions application would have been approved. Furthermore, the excavation of the footings would have lawfully implemented the permission. In those circumstances, it is reasonable

to conclude that Appeals A and B would not have been necessary. Accordingly, the Council's unreasonable behaviour resulted in the applicant incurring unnecessary expense in pursuing those appeals.

Appeal C

10. In respect of Appeal C, the Council maintained its erroneous position in one of its reasons for refusal. However, a separate reason for refusal related to whether the excavation of the footings constituted commencement of development within the relevant 56-day period following receipt of the prior approval application.
11. I have found that the excavation of the footings constituted commencement of development in relation to both the two-dwelling and single-dwelling prior approvals. Accordingly, the Council's behaviour in advancing this reason for refusal was not unreasonable.
12. However, in advancing Appeal C, the applicant was nevertheless required to address the Council's erroneous interpretation of Condition A.2 and therefore incurred some unnecessary expense.

Appeal D

13. The appeal was made against the Council's failure to determine the planning application within the prescribed period. The applicant contends that the appeal was made due to the application being delayed in being presented to the planning committee and to ensure it was determined at the same time as the other three appeals.
14. Once the appeal was lodged, the Council no longer had jurisdiction to determine the planning application, despite it subsequently being presented to planning committee with a recommendation for refusal. As the decision of the planning committee was that permission would have been refused, it is likely that the appeal would have been lodged in any event and therefore no unnecessary delay to the development was caused.
15. Notwithstanding the planning committee had no jurisdiction to determine the application, their decision nevertheless provided the basis on what reasons the application would have been refused on, had they retained the jurisdiction to do so. The minutes of the planning committee held on 11 March 2026 confirms a motion of refuse was made in accordance with the recommendation detailed in the report.
16. The report identified the Council did not have a 5 year housing land supply and therefore paragraph 11 d) of the National Planning Policy Framework (the Framework) was engaged. However, on a number of occasions throughout the committee report the incorrect paragraph 11 d) balance is applied.
17. On page 11 it states '*any future application must consider the harms associated with these policy conflicts, any other harm that may arise from the development (for example, environmental harm) and whether the lack of a demonstratable 5-year housing land supply would outweigh the policy conflicts including consideration of any additional benefits the development may bring, if permitted (i.e., economic, environmental, biodiversity, etc.)*'. This is clearly an incorrect interpretation of paragraph 11 d) as it suggests the test is to weigh the lack of a 5 years supply of

demonstrable housing land against any policy conflict. The correct test is whether the harms would significantly and demonstrably outweigh the benefits.

18. Paragraph 11 d) is further misapplied in the overall balance in the report. On page 12, it states '*I consider that one dwelling to the housing land supply would provide a modest benefit but would not overcome the harms and conflicts that have been identified. Consequently, when considering the associated harms and conflict against the modest benefits, I conclude that the harms outweigh the benefits of the scheme and as such, despite the engagement of NPPF paragraph 11(d), planning permission should be refused in this instance.*' The first sentence is weighing the benefit of one dwelling against the harms, not the other way around. Whilst the second sentence correctly weighs the harms against the benefits, it does not consider whether the harms would 'significantly and demonstrably outweigh the benefits', which is a higher burden than simply 'outweighing the benefits'.
19. Therefore, the Council were unreasonable in not correctly applying paragraph 11 d). However, in making their case, the applicant correctly understood what the Council meant and therefore I do not find any wasted expense was incurred in this regard. Applying paragraph 11 d), I have also found that the harms significantly and demonstrably outweigh the benefits and therefore, notwithstanding the Council's error, no unnecessary or wasted expense has been demonstrated to arise from this matter.
20. The Council submitted their comments late due to an IT error. Whilst this resulted in the applicant having less time to prepare a rebuttal, the Council's statement was simply copies of the Committee Report and Minutes. There was no evidence submitted at this late stage that the applicant had not already seen. The applicant's comments in the rebuttal would have likely been the same whether the committee report and minutes were submitted on time. Therefore, I do not find that the applicant incurred any wasted expense, nor were they prejudiced due to the late comments from the Council as I have allowed the appeal.

Conclusion

21. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs in respect of Appeals A and B and a partial award of costs in respect of Appeal C is therefore warranted.
22. In respect of Appeal D, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

Costs Order

23. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stratford-on-Avon District Council shall pay to Mr Gregory Besterman, the costs of the appeals proceedings described in the heading of this decision limited to those costs incurred from the preparation of the updated statement of case and in the heading of this Decision in respect of Appeals A and B and the preparation the applicant's case in respect of the issue concerning whether the Class Q prior approval reference 22/01886/COUQ was extant pursuant to Appeal C; such costs to be assessed in the Senior Courts Costs Office if not agreed.

24. The applicant is now invited to submit to Stratford-on-Avon District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Walker

INSPECTOR