



Costs Decisions

Site visit made on 10 March 2026

by **Paul Dignan MSc PhD**

an Inspector appointed by the Secretary of State

Decision date: 8th June 2026

Costs applications in relation to: APP/Y0435/X/24/3352518 (Appeal A) and APP/Y0435/W/24/3354265 (Appeal B)

349 South Row, MILTON KEYNES, MK9 2FY

- The applications are 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 applications are made by Avon Group Ltd for full awards of costs against Milton Keynes Council.
- Appeal A was against the refusal of the Council to issue a certificate of lawful use or development for Implementation of Prior Approval 21/03811/PANOTH.
- Appeal B was against the refusal of the Council to grant Prior Approval for change of use of Class E to 7 x Residential flats (Class C3).

Decisions

Appeal A

1. The application for an award of costs is refused.

Appeal B

2. The application for an award of costs is refused.

Reasons

3. 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.

Appeal A

4. This application is made on both procedural and substantive grounds. The procedural claim of unreasonable behaviour is predicated on the appellant's understanding that the Council ultimately accepted that it had wrongly determined the application. However, that is a misunderstanding of the Council's position. While it recognised some inconsistency between the planning permission condition at the centre of the dispute, and the reason given for imposing it, it maintained its view that the condition did prevent the permitted development right relied upon. While it ultimately conceded that the appeal should not be resisted, that was on the basis that it was no longer worthwhile, the condition having been found unjustified on appeal and a subsequent application on the same terms having been made. That position does not, in my view, indicate unreasonable behaviour.
5. I found in any case that the condition did act to exclude GDPO rights to make the change of use sought. That decision was on the facts of the case and the relevant case law. The Council's eventual position on the expediency of continuing to resist the appeal was, in the circumstances, not a consideration. The basis of the claim

on substantive grounds, that the Council accepted it was wrong, is similarly misconceived, for the same reasons. Unreasonable behaviour on the part of the Council has not been demonstrated and so the application cannot succeed.

Appeal B

6. This application was also made on a misconception, namely that the Council accepted that it had got the determination of the Prior Approval application wrong. The basis of this was the apparent failure of the Council to submit a Statement of Case defending its decision. As it happens the Council did submit a Statement of Case, but it was received outside of the procedural timelines and so was not accepted by the Planning Inspectorate. In its response to the costs application the Council averred that it stands by the decision to refuse prior approval as per the original decision notice and did not accept that the determination was wrong. Missing a procedural deadline is not necessarily unreasonable behaviour, but in any case the unreasonable behaviour alleged, and the basis for the costs application, has not been demonstrated, and it follows that the application must fail.

Paul Dignan

INSPECTOR