



Costs Decision

Inquiry held on 2, 3 and 4 June 2026

Site visit made on 4 June 2026

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2026

Costs application in relation to Appeal Ref: APP/Q9495/C/26/3377594

Land at South Barn, Ayside, Grange over Sands LA11 6HY

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Richard Fallowfield for a full or partial award of costs against Lake District National Park Authority.
 - The inquiry was in connection with an appeal against an enforcement notice alleging Without planning permission, the making of a material change of use from agriculture to a mixed use of agriculture, commercial timber processing, the fabrication of timber buildings and furniture and the storage of timber, vehicles and domestic items with associated operational development to erect a timber building and install an access track and areas of hardstanding.
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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. For the avoidance of doubt, a separate application for Costs has been made, by the appellant, in relation to a separate enforcement notice served by the Authority, regarding the same site, but which was subsequently withdrawn. That notice concerned an alleged breach of condition, and the related Costs application will be the subject of a separate Costs decision in due course.
4. The appellant's case for a full award of costs may be summarised as follows:
 - That the Authority denied the appellant the opportunity to discuss the alleged breach of planning control, prior to the notice being served. Had the Authority been willing to engage meaningfully with the appellant before the notice was served, it would have avoided the need for an appeal and significant associated costs;
 - That the Authority were in agreement the alleged access track and hardstanding were complete on or before March 2021, and thus were out of time for enforcement action.

- The Authority's objection to the building on the appeal site, targeted by the enforcement notice, is inconsistent with its previous stance when planning permission was granted for various agricultural related buildings on the site¹.
5. At the Inquiry, the appellant set out that if a full award of costs was not granted on the above basis, then a partial award should be made on the basis that it became evident from the Inquiry, the Authority has no evidence to contradict that of the appellant on factual matters relevant to the ground (c) and (d) appeals. Accordingly, these factual matters could have been agreed which would have rendered the Inquiry procedure unnecessary. This would have been apparent to the Authority had it undertaken a proper investigation.

Engagement with Appellant

6. The PPG sets out that local planning authorities must carry out adequate prior investigation. The Authority states that a breach of planning control was apparent, that it could not support. As such it found enforcement action to be expedient, and did not invite a retrospective planning application, as one could not be supported.
7. Whilst I acknowledge the appellant's frustration, the Authority's local enforcement plan states that it may issue an enforcement notice without prior notification. In this context, I agree that it would not be logical to encourage a retrospective planning application, that would not be supported. From the evidence, I am not persuaded that discussing the case would have ultimately led to the Authority deciding not to enforce.
8. The notice focused on the alleged material change of use. I disagreed with the Authority's position regarding the grounds (c) and (d) appeal, which concerned parts of the overall development, and also the Authority's position regarding the merits of the case. However, this did not mean the Authority's case was unreasonable.

Timing of development

9. The appellant states that their ground (d) case is that the access track and hardstanding, required to be removed by the enforcement notice, are immune from enforcement due to the passing of time. They say this was acknowledged by the Authority in a letter to the Planning Inspectorate dated 10 February 2026.
10. It is evident from this letter that the Authority accepted the track and hardstanding were complete on or before March 2021. However, they went on to explain that operational development may still be brought within the scope of the notice under the so-called *Murfitt* principle, where that development is secondary to the use.
11. The Authority has maintained this position throughout the appeal, and has not therefore contradicted its stance in seeking the removal of the track and hardstanding. Whilst, on the basis of the evidence, I disagreed with the Authority that the *Murfitt* principle brought the track and hardstanding within the scope of notice, it was nevertheless able to argue its case and did not therefore act unreasonably.

¹ Planning application reference 7/2019/5661 – Planning permission granted 13 November 2019.

Authority's previous stance

12. The appellant's case is that the Authority previously granted planning permission for various agricultural related buildings on the site, concluding that they did not cause harm to the character and appearance of the area. They say the Authority's present objection to the new building on the site, is therefore inconsistent with that stance, and is therefore unreasonable.
13. However, the building in question, though similar in siting and appearance, is not the same as that considered under the previous planning application. The Authority also referred at the Inquiry to differences in the use of land beyond the buildings. They also argued that when the officer's report relating to the previous application is read as a whole, it is evident that landscape harm, arising from the buildings, was considered to occur. This includes because of the imposition of a condition requiring the removal of the buildings, should they cease to be used for agriculture, with the reason that their modern construction would not be permitted in the absence of agricultural need.
14. Although I did not agree with the Authority's interpretation of the planning officer's previous report, it was nevertheless still possible for the Authority to take that different interpretation, together with its stance in terms of differences between this and the previously permitted development, without acting unreasonably.

Application for partial award

15. The Authority's position from the outset was that the Inquiry procedure was unnecessary in this case, having advocated the written representations procedure instead. The appellant maintained the need for an Inquiry, for reasons including the need to give evidence on oath, recognising "*albeit no detail has been provided by the LPA as to what basis they can dispute any of the factual matters advanced on behalf of the Appellant*"².
16. The appellant had set out in their proof of evidence that there was no non-agricultural storage use of the site beyond incidental personal items; and their agent had also advanced an argument that the access track and hardstanding benefitted from permitted development rights. There was also uncertainty as to the precise date the material change of use happened, and questions as to the need for the hardstanding and track in practical terms.
17. Therefore, I am not persuaded the formal examination of evidence was unnecessary in relation to whether the storage of certain items constituted a material change of use and whether permitted development rights applied (the ground (c) appeal) and to the application of the *Murfitt* principle (the ground (d) appeal). Ultimately, I disagreed with the Authority's conclusions in terms of the ground (c) and ground (d) appeals, but do not find it to have behaved unreasonably in this regard.

² See agent's email dated 20 February 2026.

Conclusion

18. Therefore, drawing the above considerations together, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R. Merrett

INSPECTOR