



Costs Decision

Site visit made on 23 June 2026

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2026

Costs application in relation to Appeal Ref: APP/T3725/X/24/3354876

Eathorpe Hall, Old Fosse Way, Eathorpe, Warwickshire, CV33 9DF

- 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 A Read for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for 'proposed erection of a set of gates, railings and brick'.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Examples of unreasonable behaviour by local planning authorities are set out in paragraphs 046-049 of the PPG, and include a failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant is seeking an award of costs on both procedural and substantive grounds. They contend that the Council failed to produce evidence to substantiate its reason for refusal at appeal.
5. Although the Council set out the grounds for refusal in the decision notice and the delegated report, the reasoning was limited. The key issue was whether the proposed development would be located within the curtilage of the listed building. It is unclear to me what factors the Council considered in reaching its conclusion on this matter as the delegated report offers no explanation, and there is no indication that the relevant caselaw referred to by the applicant was taken into account. The Council has not submitted an appeal statement to substantiate its case or respond to the applicant's grounds of appeal.
6. In response to the applicant's costs application the Council sought to justify the refusal of the certificate, but this was outside the appeal timetable for the submission of statements and was not the proper stage at which to expand upon reasons that had not been fully explained in the original decision. As such, based on the evidence, I find that the Council failed substantiate the reason for refusal. In

addressing this reason for refusal the applicant has incurred unnecessary costs as part of the appeal which it seems to me could have been avoided.

7. The applicant says that the Council gave inconsistent advice when it stated in a letter dated 08 February 2024 that listed building consent was not required for the proposal. However, that view would have been reached on a different basis to the question of planning permission, which was concerned with whether the proposal would be situated within the curtilage of the listed building. In that letter the Council did not say that the development would not lie within the curtilage of the listed building, as claimed by the applicant. Therefore, the Council have not behaved unreasonably in this respect.
8. Notwithstanding this, I find overall that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

9. 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 Warwick District Council shall pay to Mr A Read, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs office if not agreed.
10. The applicant is now invited to submit to the 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.

M Ollerenshaw

INSPECTOR