



Costs Decisions

Hearing held on 16 June 2026

Site visit made on 16 June 2026

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2026

Costs application 1 in relation to Appeal Ref: APP/M2840/W/25/3375763 Mill Marina, Midland Road, Thrapston, Northamptonshire NN14 4JR

- 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 Dax Byrne (Springbirch Developments) for a full award of costs against North Northamptonshire Council.
 - The appeal was against the refusal of planning permission for redevelopment of site to form 14 dwellings with associated car parking and landscaping.
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Costs application 2 in relation to Appeal Ref: APP/M2840/W/25/3375763 Mill Marina, Midland Road, Thrapston, Northamptonshire, NN14 4JR

- 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 North Northamptonshire Council for a full award of costs against Mr Dax Byrne (Springbirch Developments).
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Decisions

1. Application 1 is refused.
2. Application 2 is partly allowed in the terms set out below.

Procedural Matters

3. For clarity, I refer throughout the decision letter to Mr Dax Byrne (Springbirch Developments) as 'the appellant' and to North Northamptonshire Council as 'the Council,' regardless of which party is the applicant and respondent in each costs claim.
4. 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.
5. The PPG further makes it clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, but that behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.

Reasons

Costs Application 1 by Mr Dax Byrne (Springbirch Developments)

6. The appellant's case, in short, is that the Council caused unnecessary delays in the determination of the planning application, and that two reasons for refusal contained inaccuracies, namely Reason 4 erroneously referring to tandem parking spaces and Reason 6 wrongly stating that the site was in a Red Impact Zone for great crested newts, when in fact it was in a Green Impact Zone.
7. On the first matter, the Council responds that it communicated its concerns with the application within the statutory timeframe and invited the appellant to withdraw. This did not occur, and extensions of time were subsequently agreed to allow the appellant to undertake a sequential test for flood risk. Further extensions of time were agreed up to 16 May 2025, covering a period of ongoing correspondence between the parties. The decision was refused on 12 May 2025.
8. The Council adds that the agreed extensions of time complied with procedural requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and that several of the extensions were at the appellant's request to allow for amendments to be made to the application, which the Council was not obliged to do. As such, the Council contends that it did not cause unnecessary delays in the determination of the application.
9. The evidence before me indicates that the time taken to determine the application was influenced by both parties. The appellant at various points sought to extend the proposal to address outstanding issues, including conducting a sequential test. However, there were also periods where the appellant made repeated attempts to contact the planning officer for updates without success. I accept that many councils are operating under difficult circumstances, and some delays may be unavoidable. However, the email trail before me indicates that the Council continuously failed to respond to the appellant in a timely manner, and when it did, it failed to provide substantive updates for the appellant. Although extensions of time were granted, it is evident that, in the latter stages of the application, these were agreed to reluctantly by the appellant in the hope that a positive outcome could be achieved.
10. Thus, whilst the appellant played a role in keeping the application process going, I find the delays by the Council in responding to the appellant and the lack of explanation of outstanding matters were unreasonable. However, for a successful awards of costs, it must be demonstrated that the unreasonable behaviour led to wasted expense for the appellant at the appeal stage.
11. In this respect, I find that the behaviour of the Council has not resulted in any wasted or unnecessary expense, since, on the evidence of the Council's sustained objections to the proposal, it is likely that an earlier decision would have led to an appeal in any event.
12. Moreover, the evidence before me does not indicate that the Council has engaged in unnecessary procedural delay at the appeal stage and, given the outcome of the appeal, the Council did justify its position in relation to the proposal and its actions did not prevent or delay development which should have been permitted. On that basis, the Council's actions have not involved the appellant in unnecessary or wasted expense at the appeal stage.

13. In respect of the second matter, the Council acknowledges two minor errors. Firstly, in Reason for Refusal 4, the wrong number of parking spaces provided/required is stated, and there is an incorrect reference to tandem parking. The Council defends that these did not detract from its substantive concern that the appellant had failed to demonstrate that the parking arrangement would satisfy relevant technical standards and be safely accessed by residents and visitors.
14. It is clear from both the delegated report and statement of case that the Council did not in fact have concerns over the number of spaces, but rather the physical layout of these spaces and their potential usability, although there were also erroneous bay numbers cited. Reference in the delegated report to tandem parking was not repeated in the statement of case, though it was not explicitly corrected either.
15. Despite these errata, it was sufficiently clear that the substance of the Council's concerns was with the physical layout, pointing as it did to a lack of tracking diagrams to show spaces could be accessed. Moreover, the appellant dealt with these errata briefly in the statement of case, and was not put to unnecessary or wasted expense in addressing these matters.
16. Secondly, in terms of Reason 6, the Council states that it based its judgment on comments received from its consultee, NatureSpace, received 1 December 2023, at which time the site was within a Red Impact Zone. The impact zones were remodelled in 2024, but the Council defends that the appellant did not bring this change to its attention prior to the determination of the application. At appeal, the Council has accepted this reason for refusal has fallen away, and argues that it has not been procedurally or substantively unreasonable in its actions.
17. The Council withdrew Reason for Refusal 6 in its statement of case, following the appellant's explanation of the change in circumstances regarding the Impact Zone location of the appeal site. However, although this change occurred in 2024, prior to the Council's decision, this was evidently not relayed to the case officer, who was relying on NatureSpace's earlier consultee response. The appellant's statement also confirms that it obtained the updated information in a request to NatureSpace in June 2025, after the Council's decision on the application. As such, I find that Reason 6 was justified at the time on the basis of the information before the Council, and it withdrew that reason at the earliest opportunity during the appeal process, having assessed new, relevant information from the appellant. I do not find the Council's actions in this respect to be unreasonable.
18. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified.

Costs Application 2 by North Northamptonshire Council

19. The Council's claim is twofold. Firstly, that the appellant's failure to adequately progress or provide a draft planning obligation (Section 106 agreement) prior to the appeal hearing amounts to unreasonable behaviour, having regard to the PPG, relevant case law and the Procedural Guide: Planning Appeals – England. Secondly, it is argued that the appellant failed to work collaboratively with the Council in agreeing a Statement of Common Ground (SOCG) at the appeal stage.
20. On the first matter, it is set out that the Council communicated with the appellant as to the need to progress a legal agreement prior to the hearing. It is indicated that a

draft heads of terms document was submitted on 18 March 2026, a day after the deadline within the procedural guidance for receipt of a final draft agreement in advance of the original hearing date of 31 March. The Council states that no meaningful progress was subsequently made with respect to the legal agreement, resulting in no agreement being before me at the time of the hearing on 16 June 2026. The Council further points to case law in *Greenfields (IOW) Ltd v Isle of Wight Council* [2025] EWCA Civ 488 which reinforced that necessary planning obligations are properly secured in advance of any appeal hearing and are adequately publicised to ensure that third parties have adequate time to review the planning obligation prior to determination of any application or appeal.

21. The Council adds that the appellant did not dispute the need for the stated planning obligations in the SOCG, and the appellant acted unreasonably in allowing the appeal to continue where two reasons for refusal, Nos 5 and 7, could not reasonably be overcome, and despite the Council raising these concerns in correspondence prior to the hearing. In response, the appellant contends that he was always happy to pay the requested contributions, but that drafting of the planning obligation only became an issue for the Council as the original hearing date approached.
22. The evidence before me indicates that the need for financial contributions to offset the impact of development, including on the Special Protection Area, was identified at an early stage of the application process, with the response from Natural England dated 20 December 2023 and that from the Developer Contributions Officer dated 22 December 2023. This need was also made clear in Reasons 5 and 7 of the Council's decision notice dated 12 May 2025.
23. It is evident that communication between the parties during the application was at times intermittent, extended over a long time period, and often focused on other matters. However, once the appeal was made, it was incumbent on the appellant to adhere to the procedural guidance for planning appeals. With respect to planning obligations, Sections 10 and 18 of the procedural guide set out that the appellant should make sure that a final draft, agreed by all parties to it, is received by the Inspectorate no later than 2 weeks before the hearing opens. This deadline passed before any substantive progress had been made, and the opportunity was not taken to do so after the postponement of the initial hearing date which afforded several extra weeks to agree matters.
24. The procedural guide states that there should be continuous dialogue between the parties before the hearing about the draft planning obligation to ensure that the final draft is as good as it can be. Despite what was an evident breakdown in communication between the parties in preceding months, the Council sought to engage the appellant to agree the planning obligation prior to the hearing, in particular seeking confirmation of the appellant's solicitor and seeking an undertaking to meet the Council's costs, to which there does not appear to have been a response.
25. At the hearing, the appellant's position appeared to be one of expectation that outstanding points of disagreement, such as the amounts sought for certain contributions and the Council's legal fees, would be addressed, with subsequent time given to produce a legal agreement. However, this runs contrary to the procedural guide and the efficient operation of the appeal system, and the appellant was advised of such at the hearing. I am mindful of the appellant's broader

- frustration with the level of engagement by Council officers during the application process, but this preceded the appeal stage and does not justify a failure to subsequently adhere to the procedural guidance with respect to progressing a legal agreement.
26. Ultimately, there is no evidence that the appellant sought progress a planning obligation until after the hearing, when a draft unilateral undertaking was belatedly offered. As set out in my main decision, this is unsigned and therefore of no legal effect.
27. The PPG makes clear that appellants are at risk of a substantive award of costs if there is a lack of co-operation on any planning application, and at risk procedurally if there is delay in providing information or other failure to adhere to deadlines. In this case, the appellant was plainly aware of the need for a planning obligation to secure necessary financial contributions to offset the impacts of the development. The potential for the absence of a completed agreement to be a significant risk to the success of the appeal was also raised in prior correspondence by the Council.
28. I note the Council's position that the lack of an agreement meant the appeal stood no prospect of success. However, the failure to provide the requested contributions was one of several competing material considerations to be weighed in the overall planning balance, including the absence of a five year housing land supply. Moreover, the effect on the integrity of the SPA required the undertaking of an appropriate assessment. These involved matters of planning judgment in coming to an overall view of the appeal. Consequently, I do not find that the appeal as a whole stood no realistic chance of success, but the appellant's failure to follow the procedural guidance and to work proactively to produce a legal agreement to substantively address Reasons for Refusal 5 and 7, knowing such an agreement was necessary, was unreasonable.
29. Thus, I find that the appellant has pursued an appeal in spite of the failure to progress a legal agreement, of any form, before the hearing, in the knowledge one was needed and that the lack of an agreement was a significant risk to the prospects of the appeal succeeding. This amounts to unreasonable behaviour and, as a result, the Council has been put to the wasted expense of defending Reasons for Refusal 5 and 7, including in the lead up to the hearing attempting to agree matters with the appellant. A partial award of costs is therefore justified in this matter.
30. On the second matter, the Council's position is that the appellant failed to work collaboratively in agreeing a SOCG, pointing to the initial draft version containing several passages setting out the professional opinion of the appellant's agent on various disputed matters. The appellant in response describes the draft SOCG as a structured document for the Council to review and critique before both sides could agree on a final version.
31. The draft SOCG clearly contains narrative passages repeating the appellant's position on the disputed issues. Whilst this reads closer to a statement of case in some areas, each section acknowledged the Council's position. However, the value of a SOCG is in recognising areas of common ground even within the disputed issues, and highlighting the key areas of difference, rather than rehearsing the full arguments of each party. Nonetheless, this document was an initial draft, and the amendments made by the Council comprise insertions of standard policy

descriptions and, for the most part, extensive deletion of the appellant's narrative passages, rather than significant additional text produced afresh. Overall, I find that the appellant engaged with the Council to produce a SOCG, and the time spent by the Council addressing it was a normal part of the appeal process. Therefore, I find that the appellant's actions do not amount to unreasonable behaviour.

32. Overall, I conclude that a partial award of costs is justified, to cover the expense incurred by the Council in seeking to agree a Section 106 agreement with the appellant and in defending Reasons for Refusal 5 and 7 at appeal.

Costs Order (in relation to Application 2 only)

33. 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 Mr Dax Byrne (Springbirch Developments) shall pay to North Northamptonshire Council, the costs of the appeal proceedings described in the heading of this decision; limited to those costs incurred in defending Reasons for Refusal 5 and 7, including in seeking to agree a Section 106 agreement with the appellant at the appeal stage; such costs to be assessed in the Senior Courts Costs Office if not agreed.
34. The Council is now invited to submit to Mr Dax Byrne (Springbirch Developments), to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

K Savage

INSPECTOR