



Costs Decision

Inquiry held on 23-25 June and 2 July 2026

Site visit made on 23 June 2026

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2026

Costs application in relation to Appeal Ref: APP/C3620/C/26/3377551

Land at Oak View, Apple Trees, Wood Lodge, The Maples and Yew Tree, River Lane, Leatherhead KT22 0AY

- 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 Ms Rose Doherty for a full award of costs against Mole Valley District Council.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the material change in use of the Land to use as a residential caravan site for both 1. Gypsies and travellers and 2. Non-gypsies and travellers and all associated works facilitating the material change of use.
-

Decision

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

The submissions

2. The application for costs and the Council's response were both made in writing. Additional oral submissions were made at the event on behalf of the appellant. In summary, these were:
 - The judicial authorities relied upon by the Council¹ do not set any precedent – the question of the planning unit is a matter of fact and degree.
 - The Council's approach to determining the planning unit is based on ethnicity and the fact that the site is occupied by the same family rather than a thorough investigation.
 - There is a burden on the Council to get the notice right. The combined deficiencies of the notice mean that it is not correctable and must be quashed. It was unreasonable of the Council to issue a notice that was so fundamentally flawed.

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.
4. Costs applications may relate to either procedural or substantive matters. In this case, the application relates to substantive matters – that is, the issues arising from

¹ Rawlins v Secretary of State for the Environment; Gregory v Secretary of State for the Environment [1988]

the merits of the appeal. The application concerns two of the grounds of appeal – ground (b) and ground (f).

5. A full award of costs is sought in the event of the appeal being allowed on ground (b). However, the appeal on ground (b) failed, and so the costs arguments relating to that do not arise.
6. I allowed the appeal on ground (c). The appellant does not make any reference to that ground in the costs application but, for the avoidance of doubt, my decision involved matters of planning judgement and it was not unreasonable of the Council to defend its position on ground (c) at appeal. The Council was not obliged to withdraw the notice simply because the appellant regarded it as defective – it was entitled to argue its case at appeal. Nor am I persuaded that the investigation of the site was inadequate – my decision to quash the notice arises primarily due to the Council's assessment of the breach of planning control, not any misinformation about the facts of what was taking place on the site.
7. As to ground (f), the Council acknowledged that the notice as drafted could result in unintended consequences due to underenforcement. As a result, it proposed a complete replacement set of requirements. However, it does not appear that those particular deficiencies had any bearing on the appellant's decision to appeal on ground (f). The ground (f) sections of the statement of case and proof of evidence argued that various requirements were too onerous because they did not take proper account of existing planning permissions, but did not focus on the matter of underenforcement. The appellant's ground (f) case evolved to pick up that issue, but the additional points were briefly made and quickly dealt with.
8. Nor am I persuaded that it was unreasonable of the Council not to withdraw the notice once the problems with its requirements had been highlighted. It was entitled to take the view that it could live with the deficiencies or, alternatively, seek to address them with an amendment. In the event, I did not accept that the notice could be varied as proposed, but it was not unreasonable of the Council to pursue the matter as it did. Although the proposed changes would have resulted in the complete replacement of the requirements of the notice, there was considerable overlap between the wording of the requirements as issued and as proposed – the wording covered familiar territory.
9. There was a need to discuss the Council's proposed changes at the inquiry. However, it is common for changes to enforcement notices to be proposed at the appeal stage and the time spent at the inquiry discussing the issue and the Council's proposed changes was very limited.
10. Viewing the notice as a whole, while I have decided it should be quashed, its deficiencies were not such as to amount to unreasonable behaviour.
11. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Peter Willows

INSPECTOR