



Costs Decision

Hearing held on 25 February and 25 June 2026

Site visits made on 26 February and 25 June 2026

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 July 2026

Costs application in relation to Appeal Ref: APP/F2605/W/25/3374558

Ambleside Farm (aka Mobile Home at Agricultural Hay Barn, Whissonsett Road, Colkirk NR21 7FB

- 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 Breckland Council for a partial award of costs against Mr Philip Sheldon of Ambleside Farm Limited.
 - The appeal was against the refusal of planning permission for the construction of agricultural unit for the breeding and rearing of pigs and temporary agricultural workers dwelling.
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Decision

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

The submissions for Breckland Council

2. The costs application was submitted in writing prior to the second session of the hearing. At the hearing the applicant made the additional point orally that there was still confusion about the access arrangements as despite at the first hearing session the respondent confirming that the northern access would be closed to vehicular traffic the access and splay assessment dated 20 May 2026 (A&SA) indicated that the northern access would be included in the appeal proposal and provided an assessment of this access. This resulted in further unnecessary wasted cost.

The response by Mr Philip Sheldon of Ambleside Farm Limited

3. The response was made in writing. In response to the applicant's additional point the respondent accepted that the A&SA should have been prepared on the basis that the northern access would not be used for vehicular traffic.

Reasons

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 application essentially relies on the fact that the respondent submitted late evidence namely a flood risk assessment (FRA), nutrient neutrality information (NNI), the A&SA, a letter from Wensum Valley veterinary surgeons (the vet letter), information in relation to the historical status of the access arrangements (historical access arrangements), a unilateral undertaking and associated documents (UU).

They also highlight that they incurred unnecessary costs as a result of the late cancellation of the adjourned hearing, which was originally scheduled to resume on 3 June 2026.

6. I fully accept that the late submission of additional materials is liable to produce inefficiency, delay and potentially increased cost. In relation to all of these late documents I considered they were material to my decision and as I was satisfied that no-one would be prejudiced by me accepting them, I used my discretion and have taken them into account in the determination of the appeal.
7. The important question I must answer is whether the respondent has acted unreasonably in relation to these late documents resulting in the applicant incurring unnecessary costs.
8. In relation to most of this information, I am satisfied that the respondent has not acted unreasonably. In relation to the NNI, the appellant submitted a nutrient neutrality assessment (NNA) as part of the appeal process that followed the consultee (Ecological Consultant – Place Services) issuing a holding objection due to the lack of information at the application stage but indicated that they looked forward to working with the Council and the respondent to receive the additional information required to support a lawful decision and to overcome their holding objection.
9. In response to the NNA, the applicant made a number of points, including undertaking their own calculation. To my mind it was entirely reasonable for the respondent to provide clarification and additional information in order to address those concerns. The information was concise and proportionate to address the applicant's concerns. In fact, although the relevant planning officer still expressed reservations about the respondent's rebuttal information, when the consultee was reconsulted, they were very clear that they were satisfied that the information provided demonstrated that the development could achieve nutrient neutrality with appropriate mitigation. Consequently, the exchange of information was ultimately helpful in reaching agreement on an outstanding main issue and significantly reduced the time necessary to discuss this matter at the resumed hearing.
10. I consider the information provided about the historic access arrangement falls within a similar bracket as a reasonable response by the respondent to the view expressed by the applicant and the highways authority that the existing access was unauthorised. It is entirely reasonable to provide information to support their position and the information provided was very short and self-explanatory and did not result in the applicant incurring unnecessary costs.
11. Similarly, in relation to the UU, this was specifically provided to address a concern of the applicant in relation to the recreational impacts of the development. It was a very simple document, and very little time was taken discussing it at the hearing. Moreover, it addressed the Council's concerns in relation to this issue. I accept that the first draft should have been provided two weeks before the hearing opens, however in accordance with the procedure rules a final draft was provided ready for execution at the hearing itself. Other related information such as proof of title are procedural issues that need to be addressed and resolved when a planning obligation is involved and is part and parcel of the planning process and I do not consider that the respondent acted unreasonably in relation to the UU or any related information.

12. Further, the vet's letter was a very simple one-page document that supported things that the appellant had already said and did not introduce anything materially different from what was before me. If the vet had attended the hearing and said the same thing I would have allowed them to express their view and my agreement to accept this letter did not result in the applicant incurring any unnecessary costs.
13. As outlined in my appeal decision, there was confusion about the access arrangements. Although the respondent sets out that they were not aware of the green line issue until the hearing, I do not agree that is the case. The highway authority in their consultation response dated 17 July 2025 highlighted that there were three access points, the northern and central accesses (which were existing) and a new proposed southern access opposite the junction. The decision notice specifically sets out that the plans submitted show a new access point to the south of a second existing access. A cursory look at the appeal plans show that the proposed access is located opposite the junction and is not in the position of the existing access. However, the respondent's appeal statement indicates that the location plan shows two access points which are existing. That simply is not the case.
14. At the first hearing session following a short adjournment where the parties had a discussion to see if the issue could be resolved the respondent advised me that the position of the access shown on the appeal plans was an error and they did not intend to create a new access. I explained that if that was the case I did not have plan that showed the correct access and if they wanted me to take that access into account, they would need to provide a revised plan. I also explained that on receipt I would have to decide whether I would be prepared to accept the revised plan and in doing so would need to consider whether it would amount to a fundamental change to the scheme and whether anyone would be prejudiced by me accepting such a revision.
15. The respondent indicated that would be their preferred approach. As it had already been decided that it would be necessary to adjourn the hearing to another day due to the FRA issue, I set a deadline for the submission of a revised plan. Consequently, it was agreed that any discussion on highway safety matters would have to wait until the resumed hearing.
16. The appeal statement had been prepared by a planning consultant on behalf of the respondent. To my mind, it was very unfortunate that this issue had not been addressed at a much earlier stage of the appeal process. However, it did not lead directly to the adjournment of the hearing as it was already necessary to come back. Moreover, ultimately the appellant did not submit a revised drawing and so the appeal was determined based on the original appeal plans. On that basis, the confusion in relation to the access did not directly lead to the applicant incurring unnecessary costs.
17. Not long before the resumed hearing, the respondent submitted the A&SA. I accept that there was again some confusion as it included the northern access and had provided visibility and splay information in relation to it. However, I quickly confirmed with the respondent that they had agreed at the previous hearing session that they would close the northern access to vehicular traffic. That took up very little time at the hearing, and it was the clear understanding of all parties, who had been present at the first hearing session. As a result, although the confusion

- caused was unfortunate, I do not consider that it amounted to unreasonable behaviour that resulted in the applicant incurring unnecessary costs.
18. Moreover, once the confusion had finally been resolved and the appellant was sticking with the southern access shown on the appeal plans, I do not consider it was unreasonable for the respondent to submit the A&SA. This was not significantly at odds with the information previously provided by the highway authority in relation to achievable visibility splays at the proposed southern access. This meant that common ground could be quickly reached at the resumed hearing and that subject to the imposition of appropriate conditions the highway authority confirmed that they no longer had any highway safety objections, and I have agreed with their analysis as set out in my decision.
 19. The most straight forward matter to deal with is the need to further adjourn the hearing from the 3 June to the 25 June 2026. This was because of personal circumstances that were entirely out of the control of the respondent's Counsel and reasonable. I had no hesitation in granting a short further adjournment and I am rather surprised that this matter is considered by the applicant as amounting to unreasonable behaviour.
 20. That all said, I consider that the respondent has been unreasonable in relation to the FRA. As outlined above, the respondent used a planning consultant to prepare and submit their planning statement. This incorrectly set out that a FRA was not required. On that basis the specific reason for refusal had not been adequately addressed. However, the day before the opening of the first hearing session the appellant submitted a FRA. The submission of a technical report that late in the day is unreasonable. Although I considered it was material to my decision, in order to ensure that the applicant had the opportunity to consider it and importantly to re-consult interested parties it was necessary to adjourn the hearing to another day.
 21. I accept this has led to unwarranted costs to the applicant which were incurred from the date the FRA was submitted. These were having to consider the FRA and reconsult on it, additional officer time in uploading the FRA to the appeal register, reviewing consultee responses and additional officer time in dealing with the flooding issue at the hearing and arranging and providing a room and support for the resumed hearing. Although in relation to the provision of the room, it should be borne in mind that given the number of issues involved the hearing had originally been reserved for two sitting days and this should be taken into account when the parties are considering the cost implications of this matter.
 22. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the late submission of the FRA and a partial award of costs is therefore warranted.

Costs Order

23. 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 Philip Sheldon of Ambleside Farm Limited shall pay to Breckland Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the late submission of the FRA from the date that FRA was received by the applicant; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr Philip Sheldon of Ambleside Farm Limited, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Rawle

INSPECTOR