



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 Mr Philip Sheldon of Ambleside Farm Limited for a partial award of costs against Breckland Council.
 - 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 Mr Philip Sheldon of Ambleside Farm (the applicant)

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 material information from the consultee in relation to nutrient neutrality was not shared with me, or with them in a timely manner and this amounted to unreasonable behaviour which resulted in further unnecessary wasted costs.

The response by Breckland Council (the respondent)

3. The response was made in writing. In response to the applicant's additional point the respondent highlights that the consultation response was provided following a reconsultation exercise, the response was uploaded to the Council's planning portal, the response came in after all the work had been done on this issue, the issue was already on the agenda of the resumed hearing and in any event the updated nutrient neutrality assessment relies on a septic tank which is not part of the development.

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 took the view from the outset that the development should not succeed which led to an expanded list of issues, a digging in of heels and a failure to communicate. They also highlight that there is a failure to substantiate reasons for refusal and the Council refused the

- original application on the basis of matters that could have satisfactorily be resolved through conditions.
6. However, when considering the available evidence, it is reasonably clear what the respondent is concerned about in relation to each reason for refusal, and such concerns were arguable. I accept there were a large number of reasons for rejection. However, that largely reflects a reasonable response to the application submitted.
 7. I am not persuaded that in general the respondent has failed to co-operate with the applicant. Ultimately it is for the applicant to provide sufficient information in support of a planning application, especially in a situation where the applicant has moved onto an isolated site in the countryside and consequently needs to provide compelling reasons for why that may be acceptable. As explained in my appeal decision, I am not satisfied that the applicant has done so. Overall, I do not consider the respondent has been unreasonably obstructive or failed to adequately co-operate in relation to the planning application or the appeal process.
 8. Given the circumstances I consider it was inevitable that there would be an overlap between the planning application and the enforcement process. As I say, I do not consider that in relation to their conduct the respondent has acted unreasonably in relation to the planning application or the appeal. In relation to enforcement, that is an entirely different process which is not before me. That process is subject to its own appeal process, which the applicant has pursued, which has an associated cost regime and that is the correct forum if the applicant considers that the Council has acted unreasonably in relation to that separate process.
 9. Turning now to the specific reasons for refusal, I accept there were nine which is a lot of issues for the applicant to address. I also accept that the serving of enforcement notices resulted in less time for any reports to be prepared and submitted.
 10. However, in relation to the first reason for refusal that deals with the potential recreational impact of the development, as recognised by the appellant the relevant policies and the planning obligation template are on the Council's website and in any event the fact that no mitigation measures had been proposed is a legitimate reason to reject the planning application and in my experience is not unusual. Consequently, I do not consider that the respondent has acted unreasonably.
 11. Similarly, reasons for refusal 3 and 4 deal with the respondent's concerns in relation to the temporary dwelling and the agricultural unit. In relation to the dwelling, while I agree that the most relevant development plan policy is HOU 13 of Breckland Local Plan 2023 which deals with rural workers dwellings, once the respondent had assessed the development against that policy and decided it did not support the development, it is entirely reasonable to go on to consider whether such development was an acceptable form of development within the countryside. Such an assessment was a matter of planning judgement, and the delegated report makes a sufficient case to support the respondent's view. This judgement is supported by specific references to policies of the development plan.
 12. In relation to the agricultural unit, although ultimately, I am satisfied that sufficient justification has been provided for an agricultural unit in this location, I again understand the respondent's case which is a matter of planning judgement

- supported by specific references to policies of the development plan. It follows that the respondent has not acted unreasonably.
13. Reason for refusal 6 deals with highway safety. I have set out in my appeal decision the significant confusion there has been about the access arrangements. I am afraid that appellant has been the main cause of this confusion. As I set out in the respondent's cost application decision, a cursory look at the appeal plans in comparison to the position of the existing southern access and the position of Oxwick Lane should have enabled the applicant and/or their planning consultant to realise that the proposed access was a new access and was not existing. I do not think the respondent has acted unreasonably in relation to the proposed southern access. Very little information was provided by the applicant in relation to highway safety issues until close to the second hearing session when they submitted an access and splay assessment. That information helped to resolve highway safety concerns, but it is understandable that the highways authority had concerns about highway safety matters up to that point.
 14. Moreover, initially the applicant indicated that access would also be secured from the north. As I set out in my appeal decision, although there was a disagreement about whether the northern access was new or not, it was unnecessary for me to resolve that matter as the applicant agreed that they would not use that access for vehicular access. That said, the respondent's concerns, supported by the highway authority, about poor visibility from the northern access were understandable and this reason for refusal was reasonable.
 15. In relation to the seventh reason for refusal that deals with flood risk, the respondent's approach is entirely reasonable. As I set out in my planning appeal decision, a site-specific flood risk assessment (FRA) was required and a sequential test should have been applied. During the application process and very late into the appeal process no FRA was submitted and the appeal statement indicated that one was not required. It follows that the respondent's reason for refusal was reasonable and supported by the national planning policy framework (the Framework).
 16. Reason for refusal 8 deals with whether or not a tree survey should have been provided to ensure the proposed agricultural unit did not harm trees and hedgerows. Although ultimately, I found that it would not, I observed that there were trees and other vegetation to the southeast of the proposed building and undoubtedly a tree survey would have assisted in determining this issue. Consequently, the respondent's approach is not unreasonable.
 17. In relation to contamination, which is covered by reason for refusal 9, I observed in my appeal decision that the evidence pulls in different directions. As a result, even though I ultimately found that if I had been minded to allow the appeal this could have been dealt with by condition, that was a matter of planning judgment. The respondent's approach was understandable and supported by reference to a relevant policy of the local plan and the Framework. As a result, the respondent's approach was not unreasonable.
 18. I turn now to consider reason for refusal 2, that deals with the lack of information provided to demonstrate that the development would not have a likely significant effect on the integrity of European Sites. At the application stage, the applicant did not in my view submit adequate information. I accept that without such information it would not be appropriate to impose a condition as that would not provide

adequate certainty that the development would not have a significant effect on protected European Sites. Consequently, the respondent's approach to reject the application on that basis was in my view reasonable.

19. As part of the appeal process the applicant submitted a nutrient neutrality assessment (NNA). The respondent had some legitimate queries in relation to that document and there was an exchange of information. Although I would query whether it was entirely necessary for the respondent to undertake their own calculation, on balance I consider that both parties acted reasonably in an effort to address this issue. As outlined in the respondent's own cost application I set out that the Ecological Consultant from Place Services (Place Services) who they consulted on this issue issued a holding objection but indicated their willingness to work with the applicant and the respondent in order to receive further information required to support a lawful decision and to overcome their holding objection.
20. The respondent reconsulted Place Services on 13 April 2026 after the exchange of information and the respective positions of the parties had been finalised. This was appropriate given their willingness to support a lawful decision and to overcome their holding objection. On the 5 May 2026 Place Services issued their response. In relation to the impact on water quality in the River Wensum Special Area of Conservation they were very clear that they were satisfied that the information provided demonstrated that the development could achieve nutrient neutrality with appropriate mitigation and would therefore not have an adverse effect on the integrity of the designated site.
21. Not surprisingly at the resumed hearing the respondent confirmed that they were content to rely on that response and no longer objected to the NNA submitted by the applicant but did note that the NNA relied on a septic tank being operational on the appeal site which did not form part of the development subject to the appeal.
22. I acknowledge the point made about the septic tank. However, prior to receipt of the response from Place Services there was still significant disagreement between the parties in relation to nutrient pollution. This led to me including an agenda item for the resumed hearing to discuss this issue. I consider that the response from Place Services was an important material consideration and on receipt I would have expected the respondent to share the response and make the concession it subsequently did at the resumed hearing.
23. However, the response from Place Services was not shared with either the applicant or me until the day before the resumed hearing. To my mind, although I am satisfied that it was an unfortunate oversight the fact that this was not shared in a timely manner is unreasonable. Moreover, this unreasonableness is not mitigated by the fact that it was uploaded to the Council's portal.
24. Clearly, we were due to discuss this matter at the resumed hearing. But given the response from Place Services and the respondents acceptance of that response the discussion was significantly reduced from what it would have been if we had needed to discuss the outstanding areas of disagreement between the parties. It follows that I accept that the applicant would have incurred unnecessary costs in preparing to discuss the significant differences in relation to nutrient pollution that they thought still existed.
25. As a result, in relation to this issue I accept this unreasonable behaviour has led to unwarranted costs to the applicant which were incurred in any preparation time in

relation to the issue of nutrient pollution between the 5 May 2026 and the resumed hearing on 25 June 2026. Given that the respondent accepted the findings of the consultation at the resumed hearing and it was necessary to have a short discussion about the implications of the septic tank not being part of the development subject of the appeal, I do not consider that any significant additional hearing time was wasted discussing this issue.

26. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the late sharing of the response from Place Services and a partial award of costs is therefore warranted.

Costs Order

27. 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 Breckland Council shall pay to Mr Philip Sheldon of Ambleside Farm Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the late disclosure of the response from Place Services in relation to nutrient pollution from the 5 May 2026 to the date of the resumed hearing on 25 June 2026; such costs to be assessed in the Senior Courts Costs Office if not agreed.

S Rawle

INSPECTOR