



Costs Decisions

Hearing held on 19 May 2026

Site visit made on 19 May 2026

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 July 2026

Costs application in relation to Appeal A Ref: APP/R0660/C/25/3363488

Normans Hall, Chelford Road, Prestbury SK10 4PT

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Colin Muller for a full award of costs against Cheshire East Borough Council.
- The appeal was against an enforcement notice alleging the erection of a timber fence above 2 metres in height.

Costs application in relation to Appeal B Ref: APP/R0660/W/25/3375291

Normans Hall, Chelford Road, Prestbury SK10 4PT

- 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 Colin Muller for a full award of costs against Cheshire East Borough Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for extensions to the main house comprising a boot room, subterranean leisure suite and a link corridor; the erection of a glazed loggia, the provision of a dormer window and minor alterations to the converted shippon which now forms the east range of the house; erection of garage block and greenhouse; alterations to an access gate, driveway and boundary walls; removal and erection of retaining walls and landscaping and the regrading of land. Retention of timber fence adjoining the eastern boundary of the site.

Decisions

Costs application A

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

Costs application B

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

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.

Costs application A

4. The appellant's main argument is that the Council's actions in serving an enforcement notice with respect to the erection of a timber fence above 2 metres in height was irrational and that the fence is lawful under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Specifically, that the Council measured the height from its internal side where the land falls away and that there is no evidence that legal advice was sought before issuing the Notice. The misinterpretation and misapplication of relevant legal provision constitutes unreasonable behaviour according to the appellant.

5. In response, the Council has confirmed that the fence has been measured from the eastern footpath side, including on 3 March 2025 which confirmed that some sections exceed 2 metres, reaching up to a height of approximately 2.2 metres. Although not every section of the fence was measured, the Council found multiple sections above the permitted height limit and also note that ground levels are lower on the western side and the appellant confirmed fence heights there range from 1.99 metres to 3.19 metres. As any part of a fence exceeding 2 metres is not permitted development, the Council concludes that a breach of planning control has occurred and that Ground (c) of the appeal should fail.
6. The appellant argues that fence height should be measured from the highest nearby ground level and that the rules should be applied using common sense. However, as explained in the Main decision, there is no prescribed measurement method, and fence height should be measured in the ordinary way from the adjacent ground level. It is clear that parts of the fence are over 2 metres high regardless of whether they are measured from the east or west side. Even where the excess is only a few centimetres, it still exceeds the permitted development limit and, as a result, the fence requires planning permission, which has not been obtained.
7. Consequently, I do not find the Council's interpretation of the GPDO to be misguided or misplaced with respect to the unauthorised fence in question. Therefore, I am satisfied that the Notice was served with expediency and the overall approach to enforcing against the unauthorised fence has not been unreasonable.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Costs application B

9. In summary, the appellant's case is that the Council behaved unreasonably in that it could have communicated a change in position on the appeal earlier. Furthermore, there are concerns with respect to the Council's approach to dealing with the Green Belt and heritage issues with reference to the retention of the timber fence adjoining the eastern boundary of the site.
10. Firstly, the appellant refers to correspondence from the Council dated 16 September 2025 seeking amendments to the submitted planning application. The appellant's representative subsequently replied on 17 September 2025 stating that unless the Council changed its position an appeal would be lodged. Once a specified time had lapsed, the appeal was submitted. However, in its Statement of Case the Council's position had apparently moved, recognising that very special circumstances exist in terms of the fallback position with respect to the previously approved scheme for extending and altering Normans Hall. However, the Council held its position on the fence along the eastern boundary of the site.
11. The appellant contends that the Council's conduct has been poor, demonstrated by trying to remove elements of the proposed development which it now agrees is

- acceptable in planning policy terms; failing to properly assess the visual and heritage effects of the proposal until after the appeal was submitted.
12. The evidence before me is that the Council's request for amendments to the scheme followed the application consultation process and, in particular, concerns from the Council's Heritage and Conservation Officer. This is a proactive approach to dealing with the case and accords with the requirements of paragraph 39 of the Framework seeking to negotiate an acceptable form of development.
 13. There is insufficient evidence before me to indicate that the amendments being sought in the correspondence dated 16 September 2026 were determinative of the overall planning balance but were part of the development management process aiming to address specific concerns which arose during the determination stage. There is nothing unreasonable or vexatious in that approach.
 14. I accept that the Council's full assessment of the proposal took place after the appeal for non-determination had been submitted and it is clear to me that they relied upon a balanced and reasoned planning judgement taking account of the development plan and a range of material considerations, including legislation and the relatively complex planning history of the site and previously approved schemes.
 15. With respect to the Green Belt, I can see that compliance with the enforcement notice dated 26 February 2025 may leave a fence of up to 2 metres in height which would be a substantial feature in the Green Belt. By including alternative requirements in the Notice, the Council has demonstrated that in dealing with these matters it has taken account of permitted development considerations and the fall-back position with respect to the unauthorised fence. I have dealt with other concerns regarding the interpretation of permitted development rights in the Main Decision and under Costs application A.
 16. The Council has also set out its views on landscaping and whether or not it may be effective in mitigating the effects of the fence on its surroundings. Finally, in its Statement of Case the Council clearly sets out the context for making such decisions, including the development plan and the Framework, describes the heritage significance of the listed building, the effect of the proposals and a planning balance, including public benefits associated with the unauthorised fence. The appellant may not be satisfied with the level of detail set out by the Council or the outcome of its assessment, but that does not mean the Council has been unreasonable in this instance. I disagree with the appellant's allegation that the Council's case has not moved beyond vague, generalised assertions.
 17. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A A Phillips

INSPECTOR