



Ministry of Housing,
Communities &
Local Government

30 July 2026

Britannia Refined Metals Limited
Botany Road
Northfleet
Gravesend
DA11 9BG

Our Ref: APP/K2230/V/25/3360355

Dear Britannia Refined Metals Limited

LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 and 320
APPLICATION MADE BY NORTHFLEET CENTRAL 1 LIMITED AT LAND
SURROUNDING EBBSFLEET FOOTBALL CLUB, STONEBRIDGE ROAD,
NORTHFLEET
APPLICATION REF: 20221064

APPLICATION FOR A PARTIAL AWARD OF COSTS

1. I am directed by the Secretary of State to refer to the enclosed letter notifying you of her decision on the above named application.
2. This letter deals with the application by Britannia Refined Metals Limited (BRM Ltd) (the Applicant) for a partial award of costs against Northfleet Central 1 Limited.
3. The application as submitted and the response of Northfleet Central 1 Limited are recorded in the Inspector's Costs Report (CR), a copy of which is enclosed.
4. In planning inquiries, the parties are normally expected to meet their own expenses, and costs are awarded only on grounds of unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process. The application for costs has been considered in the light of the Planning Practice Guidance, the Inspector's Costs Report, the parties' submissions on costs, the inquiry papers and all the relevant circumstances.

Laura Webster, Decision Officer
Planning Casework Unit
Ministry of Housing Communities & Local Government
3rd Floor, Fry Building
2 Marsham Street
London SW1P 4DF

Email: PCC@communities.gov.uk

5. The Inspector's reasons in respect of the application and Northfleet Central 1 Limited's response is at paragraphs CR7-CR25, with his conclusions and recommendation at CR26-29. The Inspector considered that a partial award of costs is justified on the basis that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated. This should be limited to BRM Ltd's unnecessary and wasted expense caused by having to address new evidence at the inquiry in relation to car parking, the Lorry Marshalling Area (LMA) and the Site of Special Scientific Interest (SSSI) drawings and matters (CR29).
6. Having considered all the available evidence, and having particular regard to the Planning Practice Guidance, the Secretary of State agrees with the Inspector's conclusions and recommendation. She therefore agrees that a partial award of costs is justified in this instance.
7. Accordingly, the Secretary of State, in exercise of her powers under section 250(5) of the Local Government Act 1972 and sections 78 and 320 of the Town and Country Planning Act 1990, HEREBY ORDERS that the Northfleet Central 1 Limited shall pay to BRM Ltd, the partial costs of the appeal proceedings described in the heading of this decision (and relating to Options A, B, B2 drawings, and access and cat predation drawings and costs incurred therein).
8. You are invited to submit to Northfleet Central 1 Limited, to whom a copy of this decision has been sent, the details of those costs, with a view to reaching agreement on the amount. Guidance on how the amount is to be settled where the parties cannot agree on a sum is at paragraph 44 of the Planning Practice Guidance on appeals, at <http://tinyurl.com/ja46o7n>

Right to challenge the decision

9. This decision on your application for an award of costs can be challenged under section 288 of the Town and Country Planning Act 1990 if permission of the High Court is granted. The procedure to follow is identical to that for challenging the substantive decision on this case and any such application must be made within six weeks from the day after the date of the Costs decision.

Yours faithfully,

Laura Webster

This decision was made by Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State, and signed on his behalf



Costs Report to the Secretary of State for Housing, Communities and Local Government

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Date: 14 May 2026

Town and Country Planning Act 1990 and the Local Government Act 1972

Costs Application by Britannia Refined Metals Ltd

Planning Application by Northfleet Central 1 Limited

Inquiry opened on Tuesday 20 May, sat to Friday 13 June inclusive;
then resumed on Thursday 11 September and adjourned on Friday 12 September 2025.

Closed in writing on 2 November 2025

Land surrounding Ebbsfleet United Football Club, Stonebridge Road, Northfleet

File Ref: PINS: APP/K2230/V/25/**3360355**

File Ref: APP/ K2230/V/25/3360355

Land surrounding Ebbsfleet United Football Club, Stonebridge Road, Northfleet

- The application is made under the Town and Country Planning Act 1990, sections 78 and 320, and the Local Government Act 1972, section 250(5).
- The application is made by Britannia Refined Metals Limited for a partial award of costs against the Northfleet Central 1 Limited.
- The inquiry was in connection with an application described as '*Outline planning application with all matters reserved, except for the primary means of access and road layout, for a phased mixed-use redevelopment involving the Demolition of existing buildings and structures including site preparation / remediation works, and the development of residential units (Use Class C3), Class E uses including floorspace for retail Class E(a)), food/beverage and drinking establishments (Use Class E(b)), local services (Use Class E(c)), indoor sport / recreation / fitness (use Class E(d)), healthcare space (Use Class E(e)), creche / nursery uses (Use Class E(f)), office floorspace (Use Class E(g)(i)), a new multi-use stadium with associated business and leisure facilities (sui generis), hotel (Use Class C1), community uses floorspace (Use Class F2). The phased redevelopment will include other sui generis uses, delivery of open space and significant realignment of the road network including the A226 Galley Hill Road / Stonebridge Road / Lower Road with hard / soft landscaping, car and cycle parking provisions, infrastructure works, ancillary and associated works.*'
- The reason given for making the direction was: *In deciding whether to call in this application, the Secretary of State has considered her policy on calling in planning applications. This gives examples of the types of issues which may lead her to conclude, in her opinion, that the application should be called in. In the light of her policy, the Secretary of State has decided to call-in this application.*

Summary of Recommendation:

The application for a partial award of costs be allowed.

Background

1. The Applicant, Britannia Refined Metals Limited (herein BRM Ltd) did not indicate that it intended making any application for costs prior to the Inquiry. An application was made on 14 August 2025.
2. The application for costs was rebutted by the Northfleet Central 1 Limited on 29 August 2025.
3. The application, rebuttal and final comments form the basis of this Report's recommendation.

The Submissions for BRM Ltd

4. Put simply, BRM Ltd considers that Northfleet Central 1 Limited have acted unreasonably due to the manner in which they have chosen to deal with the reprovision of road access to the BRM Ltd site, the reprovision of BRM's car park and Lorry Marshalling Area (LMA), as well as the creation of the redline application boundary and the necessary ecology measures. This includes behaviour before and after the application was called-in by the SoS.

The Response by Northfleet Central 1 Limited

5. Northfleet Central 1 Limited considers that they have conducted itself reasonably throughout the Inquiry. It is considered that there is nothing exceptional that could justify an award of costs for events pre-dating the call-in. After the call-in,

evidence was provided in line with the timetable – or, where later material arose, as soon as it became available and in accordance with the Inspector's Ruling (June 2025). Consultation requirements were met promptly and transparently, and Northfleet Central 1 Limited made every reasonable effort to engage constructively with BRM Ltd.

6. The Applicant, BRM Ltd, have not established that any element of Northfleet Central 1 Limited's conduct was unreasonable in the sense required by the PPG, or that any such conduct directly caused BRM Ltd to incur expense that was unnecessary or wasted. Accordingly, they consider that the application for an award of costs should be refused.

Reasons and Conclusion

7. The Planning Practice Guidance (the Guidance) 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.

8. The Guidance¹ also states:

How does the award of costs apply to called-in planning applications?

When a planning application is "called-in", it is determined by the Secretary of State rather than by the local planning authority. This places the parties at a called-in proceeding in a different position from that in a planning appeal. The local planning authority is not defending a decision to refuse planning permission, or a failure to determine the application within the prescribed period.

In these circumstances, it is not envisaged that a party would be at risk of an award of costs for unreasonable behaviour relating to the substance of the case or action taken prior to the call-in decision. However, a party's failure to comply with the normal procedural requirements of inquiries, including aborting the process by withdrawing the application without good reason, risks an award of costs for unreasonable behaviour.

Paragraph: 034 Reference ID: 16-034-20140306

Revision date: 06 03 2014

Behaviour before the application was called-in

9. As indicated above within the Guidance, it is not envisaged that a party would be at risk of an award of costs for unreasonable behaviour relating to the substance of the case or action taken prior to the call-in. Whilst noting that there were a number of deficiencies within the application originally as submitted to the Local Planning Authority – as evidenced by the fact that Northfleet Central 1 Limited felt compelled to submit a number of plans and documents at the Inquiry – the Guidance is clear that this in itself would not put a party at risk of an award of costs.
10. At the same time, the absence of undertaking a full visual survey of the site, including the location of the redline, and land and features contained within it, is

¹ <https://www.gov.uk/guidance/appeals>

concerning. For example, the access road to the BRM Ltd, and other businesses located beyond, the car parking area serving BRM Ltd, and the Lorry Marshalling Area (LMA) do not appear to have been taken into account when the site developer was devising the outline scheme. Proper preparation, which would have included visiting the site to ensure that the features shown on maps and plans were accurate, would have likely prevented or minimised the many matters which arose at the Inquiry.

Behaviour after the application was called-in

11. During the Inquiry, as set out in the application for costs, the Northfleet Central 1 Limited essentially carried out ongoing refinements to the scheme. This included the provision of Appendix D of Mr Spiller's Proof of Evidence, and then the submission of Options A, B and B2 during the Inquiry after evidence on highways matters had been heard and tested from both the planning applicant and BRM Ltd.
12. These were not minimal amendments documents seeking to rectify *de minimus* points. Instead, they were necessitated by the absence of thorough consideration at the application stage by the planning applicant. For example, Northfleet Central 1 Limited failed to recognise the need to provide car parking and LMA for BRM Ltd which was required in order to deliver the proposed outline development.
13. This was on land which was and is not within the ownership or control of the planning application. Failure to provide these would result in an adverse effect on the operation of the BRM Ltd site; which is an operation of national significance as one of the largest lead refineries in Europe. The absence of recognising these areas, and the importance to the safe and effective operation of a multi-million pound site is worrying at the very least.
14. This is further compounded by the fact that a cursory glance at the plans on site would reveal the location of this existing car parking and LMA provision, and moreover given that BRM Ltd continued to raise this as an issue at numerous points before the application was called-in. It cannot be said that the planning applicants were unaware of this matter. Yet they chose to not address it until the Inquiry opened some four months after the application was called-in. Even worse, the amendments were submitted in an *ad hoc* and unhelpful manner; after the related evidence had been heard.
15. This matter was further undermined by the fact that Northfleet Central 1 Limited failed to provide an electronic CAD file until 30 April 2025 in relation to the first request. I observed at the Inquiry that the provision of the CAD file – not unreasonably sought given the apparent inability of the planning applicant to undertake robust initial surveys and submit a fully considered scheme in the first instance – continued to be problematic. This resulted in further requests for CAD files to be provided (such as on 30 May 2025 see Annexe B).
16. Additionally, even when the planning applicant sent to Natural England a copy of one of the further drawings (relating to the SSSI), this was an entirely different Option (B) drawing which had not been put before the Inquiry previously. This goes back to the point made by the costs applicant in that whilst they acknowledge the Guidance in respect of costs before an application is called-in, the background is important here. This is a scheme which, even with countless

hours of effort put into it prior to an application, does not appear to have been well conceived or put together in a way that assist either interested parties or indeed the decision-maker.

17. The submission of numerous amendments to the application scheme during the Inquiry itself; and after related oral evidence had been heard and Proofs tested by cross-examination, is unreasonable. It relied on Rule 6 Parties having to call back witnesses to address the amended plans and information in an unplanned way. This is unhelpful at best; especially given that much time was spent prior to the Inquiry opening by myself in organising the broad chronology of the evidence being heard and a timetable.
18. Added to this, at the Inquiry itself, many hours were, quite frankly, wasted on debating whether or not to accept the amendments. Whilst this was important to ensure that procedural fairness for all parties was maintained (including considering what would assist the SoS as the decision-maker) it was in many respects not a very practical use of time. Indeed, it led to the Inquiry having to take a long adjournment between June to September 2025 in order to have sufficient time to hear and test the evidence and also in order to carry out further consultations given the submission of new evidence at the Inquiry itself.
19. Much of this was evidence which could and should have been submitted at an earlier stage before the Inquiry opened, or the applicant should have withdrawn their application and submitted a revised one including the information. Indeed, I am surprised that the Local Planning Authority were minded to grant planning permission given the deficiencies that existed within the scheme at the pre-Inquiry stage (notwithstanding the separate matter of planning merits which I deal with in the planning report).
20. Lastly, it is clear that there are fundamental issues with the access road due to the proximity of the National Grid Pylon and its base. This matter was raised by the National Grid in a timely manner. Yet it was BRM Ltd who had to undertake topographical survey in order to interrogate the planning applicant's information on this (following the provision of another AutoCAD drawing). This demonstrated clearly that an Asset Protection Agreement is unlikely to be able to address the concerns that the road access arrangements create. Arrangements which are a direct result of the application scheme and which are not reserved matters.
21. The failure to adhere to the normal procedural requirements of inquiries by the planning applicant, Northfleet Central 1 Limited, was unreasonable. The constant and consistent changes to the application scheme – and importantly – even after the evidence had been heard and tested on such matters, and in the context of these matters having been raised before the Inquiry opened (so reasonably could and should have been addressed then) is plainly unreasonable.
22. It is well established custom and practice that parties prepare properly for the Inquiry and continue to seek common ground in order to narrow the issues prior to the event. This is clear through measures such as the Rosewell Review of Inquiries; to which the experienced advocates of all main parties will be aware of. It is not the role of the Inquiry to act as a forum for further (and numerous) refinements and alterations to a scheme in order to address issues which planning applicants were aware of prior to the Inquiry.

23. All of these factors clearly point to unreasonable behaviour by the planning applicant in this case. I therefore recommend to the SoS that unreasonable behaviour has occurred, and that this occurred at the called-in Inquiry and at numerous points during.
24. The planning applicant has pointed to my Ruling² dated 10 June 2025. It should be noted that the Ruling was originally issued on 3 June 2025: but as per the note of the 10 June 2025 Ruling, drawing Option B was withdrawn by the Applicant and supplemented by drawing Option B2 Revision A. Whilst this demonstrates procedural correctness, it does not act as some form of 'fig leaf' cover for the planning applicant in order to justify the continued submissions of amendments to the scheme. Indeed, it is indicative of the haphazard approach of Northfleet Central 1 Limited in relation to the car parking, LMA and SSSI, that even the Ruling issued in writing on 3 June 2025 itself was subjected to another drawing being submitted by them.
25. Whilst I do not doubt the planning applicant's, (and their advocates and expert's), integrity and desire to assist the Inquiry, the fact remains that the behaviour noted above was unreasonable. This was unreasonable behaviour which resulted in unnecessary and wasted expense for the applicant BRM Ltd. This expense related to having to address the issues that the amended drawings and information sought to address, the referring back to witnesses who had already provided their evidence at the Inquiry, and the need to have a number of witnesses continually reviewing new evidence a number of times at the Inquiry; and usually within a short timeframe.

Conclusion

26. There is a legitimate expectation that the parties to an appeal (under s78 TCPA) bear their own costs. A similar expectation remains in relation to parties addressing planning merits in relation to planning applications (including those called-in under s77 TCPA).
27. I find that there is a strong likelihood that had these known matters been addressed earlier by Northfleet Central 1 Limited then matters would have narrowed further between those parties. This would have saved valuable Inquiry time, meant that parties would not have had to continually address points raised at the Inquiry relating to this late evidence, and /or would have avoided expert witnesses having to return to review the new evidence in order to assist the Inquiry.
28. Overall, I conclude that Northfleet Central 1 Limited did act unreasonably which caused unnecessary and wasted expense, and that this was to an extent that the partial costs should be awarded to the Applicant.

Recommendation

29. I consider that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and I therefore conclude that a partial award of costs is justified in this instance. This should be limited to applicants unnecessary and wasted expense caused

² [INQ-18 RULING Alternate Parking and LMA for BRM \(Updated to reflect Option B2\)](#)

having to address new evidence at the Inquiry in relation to the car parking, LMA and SSSI drawings and matters.

30. An example of text issuing a Cost Order is provided in Annex A of this Report. It is strongly recommended that any Costs Order reflects the wording of that provided.
31. However, the Secretary of State may find that the unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. In which case a partial award of costs would not be justified. The Secretary of State may alternatively find that a partial awards of costs within a narrower scope may have been demonstrated.

C Parker

INSPECTOR

DOCUMENTS SUBMITTED RELATING TO APPLICATION FOR COSTS

Title	Dated
Costs Application on behalf of Harrow School	12 May 2019
(Draft) Skeleton costs on behalf of Harrow School	Undated
<i>Derbyshire Dales DC V SoS CLG [2009] EWHC 1729 (Admin)</i>	17 July 2009
<i>Regina (Mount Cook Land Ltd and another) v Westminster City Council [2003] EWCA Civ 1346</i>	May and October 2003
<i>Trusthouse Forte Hotels Ltd v SoS for Environment</i>	June 1986
<i>Westerleigh Group Limited v SoS CLG, Blaby District Council, Memoria Limited [2014] EWHC 4313 (Admin) 2014 WL 6862827</i>	18 December 2014
Mayor of London's Written Response to Harrow School's Application for Costs	15 May 2019

Annex A – Example Costs Order

1. 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 the Northfleet Central 1 Limited shall pay to Britannia Refined Metals Limited, the partial costs of the appeal proceedings described in the heading of this decision (and relating to Options A, B, B2 drawings, and access and cat predation drawings and costs incurred therein); such costs to be assessed in the Senior Courts Costs Office if not agreed.
2. The applicant is now invited to submit to the Northfleet Central 1 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.

Annexe B – Timeline of matters provided by the Applicant

Date	Deadline	Evidence Submitted
27 March 2025	Statement of Case	No evidence submitted in respect of a proposal for the replacement LMA or car park
22 April 2025	Proofs of Evidence	Mr Spiller's (being the Applicant's transport expert) Proof of Evidence (CD APP-JB-12) provides Appendix D (now known as 'Option A')
30 April 2025	N/A	Digital file of Option A provided to BRM upon request from BRM
1 May 2025	N/A	A different plan showing 'Option A' is sent to Mr Odendaal via e-mail
9 May 2025	Rebuttal proofs of evidence	Applicant's rebuttals include an updated condition referencing re-provision of the LMA
23 May 2025	Inquiry sitting day	Ms Turohan (being BRM's transport expert), gives evidence
27 May 2025	Inquiry sitting day	Mr Spiller (being the Applicant's design witness) gives evidence
29 May 2025	Inquiry sitting day	The inquiry spent two hours discussing procedural implications of consultation (particularly of Natural England) on Option A and changes to SSSI mitigation. Applicant sends 'Option B' to Natural England (noting that Option B had not yet been presented to the Inquiry)

30 May 2025	Inquiry sitting day	'Option B' presented to the Inquiry. BRM ask for digital CAD files to be provided
3 June 2025	Inquiry sitting day	- Option B accepted into the Inquiry. This required substantive review by BRM and its technical witnesses. - Mr Whitby (being BRM's ecology expert) gives evidence and provides technical note on Option B.
4 June 2025	Inquiry sitting day	- Revision of Option B ('Option B2') provided to Rule 6 parties at 7:07pm - Parameter plan deviation dwg provided the same evening. - These both required substantive review by BRM and its technical witnesses.
5 June 2025	Inquiry sitting day	- Morning spent discussing Option B2 (which includes the cat mitigation measures), need for clarity re plans being relied on and digital plans to be shared with BRM. - Mr Odendaal gives evidence a day later than timetable planned and provides a note on Option B (INQ-23). Mrs Turohan provides a note on Option B (INQ-24).
6 June 2025	Inquiry sitting day	Mr Whitby's note on B2 (INQ-28) accepted
10 June 2025	Inquiry sitting day	Discussions re proposed consultation pack

11 June 2025	Inquiry sitting day	Discussions re proposed consultation pack
12 June 2025	Inquiry sitting day	Consultation pack agreed
26 June to 28 July 2025	Inquiry sitting day	Consultation period
11 September to 12 September 2025	Inquiry sitting day	Inquiry to resume for closing statements



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.