



Costs Decision

Hearing held on 1 July 2026

Site visit made on 1 July 2026

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2026

Costs application in relation to Appeal Ref: APP/G5180/C/26/3378375 Land adjoining and to the west of Jodeen Animal Sanctuary, Sevenoaks Road, Halstead, Kent TN14 7HR

- The application is made under the Town and Country Planning Act 1990 (as amended) (the Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Edward O'Driscoll for a full or partial award of costs against the Council of the London Borough of Bromley.
 - The appeal was against an enforcement notice alleging without the required planning permission, the operational development of the westward extension of the existing traveller site known as "Jodeen Animal Sanctuary" at the Land, comprising of: operational development and a material change of use of land for the siting of caravans for residential use.
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Decision

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

The submissions for and response by Mr Edward O'Driscoll

2. The costs application was made orally at the hearing and a written response to the Council's comments was made in writing after the hearing had closed.
3. The submissions made orally in summary were for a costs application to be successful; it needs to be timely, there needs to be unreasonable behaviour, and that needs to have led to unnecessary costs. The application is in two parts; the full award seeks full costs from the issuing of the enforcement notice. The basis for the full award is that the council failed to carry out a satisfactory prior investigation¹. This also involves full consideration. The issue here is the correspondence² with the Council, where we raised the point that the land was grey belt, and on 1 October 2025 the appellant sent an appeal decision³ to the Council. That decision pointed out that there was a need for a dayroom and paragraph 155 of the National Planning Policy Framework (the Framework) applied to dayrooms on existing pitches, and that land was grey belt and sustainable and planning permission was granted.
4. The circumstances between that case and this case are the same, and despite trying multiple times to engage with the Council, they have failed to do so in respect of grey belt. Comparing what is said in the Council's expediency report⁴ against the correspondence that the Council has had with the applicant, you will see that the words 'grey belt' do not exist in their report, so they failed to consider it. And when they issued the enforcement notice, they had no consideration of grey belt and when they were faced with grey belt considerations on appeal, their case was that

¹ PPG paragraph 048 Reference ID: 16-048-20140306

² Appellant Hearing Statement, Appendix A6

³ Appellant Hearing Statement, Appendix B8

⁴ Appellant Hearing Statement, Appendix A3

the dayroom should be located within the existing site. This is not a consideration of Framework paragraph 155. So, this is a notice that should never have been issued, as you do not issue a notice merely to remedy the absence of planning permission. With regard to the Planning Practice Guide (PPG)⁵, the Council are not following grey belt considerations.

5. The partial award is in the alternative if you consider the Council did not act unreasonably in issuing the notice. This would kick in either after the appellant's grounds of appeal or after the appeal statement went in. This relates to the under-enforcement point. I do not think the Council intended to underenforce, and their statement does not say that they intended to do so, and the Council could have withdrawn the notice, and we invited them to do so. This has considerable effects for the outcome of the appeal, as the fallback position is a significant material consideration. You may conclude the Council's case was hopeless from the point that they underenforced and give them the benefit of the doubt that they did not intend to underenforce, but we should not be here given the evidence submitted. Costs have been incurred either in respect of the preparation and submission of evidence or that plus attendance. It should not be the purpose of the planning system for the appellant to bear the Council's costs of investigating a potential breach of planning and dealing with a poorly drafted notice. The quality of the notice is a clear matter for the Council. Either way, we shouldn't have got here in respect of inappropriate development.

The response by the Council of the London Borough of Bromley

6. The response was made in writing after the hearing had closed.

Reasons

7. Parties in planning appeals normally meet their own expenses. However, the 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.
8. The appellant's application seeks an award of costs on substantive grounds. The PPG says that costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, but behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded. I consider that this principle equally applies to enforcement action given that the PPG says that local planning authorities must carry out adequate prior investigation. It also confirms that they are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate.
9. For context, the Council refused planning permission for the "extension to hard surfacing, repositioning of boundary fence and erection of amenity block" in July 2024. This related to land comprising the appeal site, but the Council's decision was made prior to the publication of the current version of the Framework, which introduced the grey belt exception to development, also not being regarded as inappropriate development in the Green Belt.
10. On 2 July 2025 planning permission (2025 appeal decision) was "granted for material change of use of land for siting of caravans for residential use for

⁵ PPG, Paragraph 049 Reference ID: 16-049-20140306, Fifth bullet point

occupation by Gypsy Travellers with a septic tank, hard standing, re-profiling of land and boundary fence” on land adjacent to the appeal site. Within this decision the Inspector determined that the “appeal site is grey belt land”.

11. The dayroom subject of the notice did not form part of the planning permission granted by the 2025 appeal decision, nor is it located within the corresponding site edged red. Therefore, the planning merits of the amenity building were not considered in the 2025 appeal decision.
12. Given the preceding planning application and the 2025 appeal decision, the Council considered the expediency of taking enforcement action in respect of the development subject of the appeal before me. As part of that work, correspondence between the parties in October 2025 shows that a site visit was carried out on 22 October 2025. This established what accommodation was inside the dayroom and how this related to the earlier planning application.
13. On 1 October 2025 the applicant provided a copy of an appeal decision for a site in Basildon. While it may be generally accepted practice for a dayroom to be present on Gypsy and Traveller sites and there to be a need for this type of provision, personal circumstances were considered in the Basildon case. As those are case specific, the outcome of the Basildon decision does not automatically mean that the same outcome will necessarily be reached in relation to Framework paragraph 155(b) in each and every case where a dayroom is proposed or built. The Council was entitled to reach its own view based on the circumstances of the case.
14. However, the Council’s delegated report – enforcement action, dated 19 December 2025, which was prepared before the enforcement notice was issued on 6 March 2025, did not include any analysis of the grey belt exception in paragraph 155. Nor was there any analysis about any of the other exceptions found in the Framework. Consideration was rightly given to Policy 49 of the Local Plan (LP), but that policy does need to be looked at alongside the Framework due to the changes made to national Green Belt policy since the LP was adopted. The supporting text to LP Policy 49 demonstrates that relationship.
15. London Plan Policy G2 was stated by the Council in its ‘reasons for action (assessment)’. There was no analysis of this policy within the Council’s report, yet the development was said to be “inappropriate...in the Metropolitan Green Belt” despite Policy G2 wholly relying on the exceptions to inappropriate development found in national policy.
16. The reasons for action were largely carried out forward as the ‘reasons for this notice’ on the notice itself, but there was the additional reference to section 13 (Green Belt) of the Framework.
17. The adequacy of the Council’s investigation and subsequent action in issuing the notice was surprising. This is because the 2025 appeal decision was made a matter of months earlier on adjoining land, and this included clear findings in respect of grey belt, and there had not been a material change of circumstances since then. Further, although the Council cited an extract from the 2025 decision within its report, it did not engage with the substance of the appeal decision in terms of grey belt. There was also no analysis of London Plan Policy G2 or the Framework, which was plainly a material consideration in this case given the Council’s reliance on it given the reasons for issuing the notice. The applicant had also been in correspondence with the Council about the site being grey belt land.

18. The Council simply did not adequately consider the reasons for taking enforcement action. Or even if it did, they are not to be found in any document. The Council's Statement of Case (SoC) and answers at the hearing do not change the adequacy of the investigation, as both were after the notice was issued. The Council's inadequate investigation prior to issuing the notice was unreasonable behaviour due to the consequences of the Council's actions. The Council's behaviour led to the issuing of an inaccurate notice, and the applicant having to appeal to raise various points about its accuracy but also to spend time and expense addressing points relating to grey belt.
19. The Council did not dispute that the notice does not require the residential use of the land to cease. No explanation was provided about whether the notice was intentionally drafted in this way or whether it was an unintended consequence. The Council did not also address the applicant's points around underenforcement within its SoC. While the Council stated that "no very special circumstances have been advanced by the appellant in support of the development", that did not reflect the applicant's case set out in the 'material considerations (benefits) in favour of the development' section of his Appeal Statement. In short, the Council did not engage with the applicant's points until the hearing itself, and time was spent at the hearing discussing the fallback position.
20. That could have been avoided, especially as the Council accepted that there is a real prospect of the fallback position occurring. But, as the applicant explained, the fallback position which flows from the under-enforcement of the residential use would still require planning permission to be sought for a dayroom on the appeal site. This would be the case even if the hardstanding, boundary treatment, access and the use of the land to station a caravan(s) were all permitted development. There is also no certainty about the size, location and make-up of the dayroom, so, as the Council explained, it is not just a given that you would have entirely the same development on the land. Therefore, the Council exercised its judgement and stated at the hearing that the fallback position would have a less harmful effect than the development subject of the notice and explained why.
21. However, that explanation came late in the process, and the Council acted unreasonably in not engaging with the point earlier, especially as the Council did not dispute the use of permitted development rights in respect of some aspects of the alleged breach of planning control. Those actions put the applicant to unnecessary and wasted expense in the appeal process from the point when the matter was first raised by the applicant with the Council, as these aspects of the appeal could have been avoided if the notice had been accurate and the relevant factors were taken into account. The unnecessary work and wasted expense incurred by the applicant do not relate to the dayroom for the reasons explained.

Conclusion

22. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred because of the Council's inadequate prior investigation and the Council's approach to considering and substantiating its case on the other considerations raised by the applicant. A full 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 Act, and all other enabling powers in that behalf, IT IS

HEREBY ORDERED that the Council of the London Borough of Bromley shall pay to Mr Edward O'Driscoll, the costs of the appeal proceedings described in the heading of this decision. Such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to the Council of the London Borough of Bromley, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew McGlone

INSPECTOR