



Costs Decision

Site visit made on 11 August 2026

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2026

Costs application in relation to Appeal Ref: APP/J0350/C/25/3365957

Land at 1 Mitchell Close, Slough, SL1 9DY

- 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 M Asif for a full award of costs against Slough Borough Council.
 - The appeal was against an enforcement notice alleging without planning permission, the unauthorised material change of use of public amenity land to residential, the erection of a 1.8/2m high close boarded boundary fence, a 0.9/1m high boundary picket fence and a 1.8/2m high close boarded fence sub-dividing the land and associated hardstanding.
-

Decision

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

Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (PPG) appeals chapter advises that costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030).
3. Paragraph 028 of the PPG explains that the aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. At paragraph 031, the PPG advises that 'unreasonable' has its ordinary meaning, as established by the Courts.¹ It goes on to explain that unreasonable behaviour can be either procedural-relating to the process, or substantive-relating to the issues arising from the merits of the appeal.
4. The applicant sought an award of their costs incurred in making the appeal on what I understand to be both procedural and substantive grounds. The application was made in writing, in accordance with the PPG at paragraph 035. Summarised, the applicant's case is that the issuing of the enforcement notice was an abuse of process, after the Council had resiled from its previous position regarding the granting of a licence to occupy the appeal site. The Council did not enter into negotiations or provide sufficient warning prior to taking formal action, nor explain why such action would be expedient. The applicant had been prepared to make a planning application which sought to regularise matters at the site. The applicant also considers that the Council has not substantiated its case at appeal, as the matters alleged in the notice are not in breach of planning control and the reasons for its issue lack merit.
5. Paragraph 048 of the PPG stresses that a Council must carry out an adequate investigation prior to the issue of an enforcement notice. A Council will be at risk of an award of costs being made if it is concluded that an appeal could have been

¹ *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774

- 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.
6. At paragraph 049, the PPG provides a non-exhaustive list of examples of unreasonable behaviour by a Council relating to the substance of the matter at appeal. These include failing to produce evidence to substantiate each reason for refusal on appeal and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, acting contrary to or not following well-established case law, not determining similar cases in a similar manner, not reviewing their case promptly following the lodging of an appeal and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
 7. The applicant's frustrations with the Council over the abortive licencing negotiations are understandable. However, since land ownership matters fall outside of the planning system they are beyond the scope of the costs regime. Receipt of the notice did not come as a 'bolt from the blue.' The applicant was given advance warning that enforcement action would be taken if the breach of planning control was not remedied voluntarily. The applicant had ample opportunity to submit a retrospective planning application in the protracted period between the initial contact made by the Council's enforcement team and the issuing of the notice.
 8. The Council could have entered into negotiations with the applicant and explained its position more clearly before concluding that formal action was expedient, having regard to the Development Plan and all of the material considerations. However, given the resourcing constraints often faced by Councils that is not always practicable. Besides, neither discussions nor submission of a planning application are likely to have prevented the issuing of the notice or significantly narrowed the matters at issue in the subsequent appeal.
 9. The Council has also substantiated its case at appeal in relation to the matters which constitute the breach of planning control, as well as in respect of the objections to those matters set out in the reasons for issuing the notice. The Council's case is founded in a body of significant, relevant and objective evidence which, in relation to ground (a), is supported by the relevant policies of the Development Plan. Following consideration of all the available evidence, my findings on both grounds of appeal largely reflect the position set out in the Council's case. Whilst I did not share the Council's views on matters of highway safety in the ground (a) appeal, sufficient evidence was supplied to show that those concerns had a respectable basis and were not entirely unfounded.
 10. Accordingly, based on the available evidence I am not persuaded that the Council has acted in a manner similar to any of the examples of unreasonable behaviour referred to above relating to the investigation prior to the notice being issued or the substance of the case, or to any other of the examples of such behaviour referred to in the PPG, or that it has otherwise acted unreasonably. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stephen Hawkins

INSPECTOR