



Costs Decision

Inquiry held on 24 March 2026

Site visit made on 23 March 2026

by Thomas Shields DipURP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2026

Costs application in relation to Appeal A: APP/B1550/C/25/3372995 and Appeal B: APP/B1550/C/25/3375598

Land at Limehouse Nursery, The Drive, Rayleigh, Essex

- The application is made under the Town and Country Planning Act 1990 ("the Act"), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Sandra Poole for a full award of costs against the Rochford District Council.
 - The appeals were against enforcement notices alleging (Appeal A) the making of a material change of use of land for the stationing of shipping containers used for private rented self-storage, and (Appeal B) the carrying out of operational development, namely the erection and siting of metal shipping containers used for private rented self-storage business use.
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Decision

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

Reasons

2. 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 on procedural and/or substantive grounds and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG lists examples of behaviour that can result in costs being awarded. However, it is important to note firstly, that the list is not exhaustive, and secondly they are examples of behaviours that "may" give rise to an award of costs. As such, each application will need to be considered on the particular circumstances and on its individual merits.
4. The applicant's case is made on both procedural and substantive grounds. The arguments advanced on behalf of the applicant, and in response from the Council, were set out in written submissions. As such, I need not repeat them in any detail here.

Statement of Common Ground

5. In the early case management conference the parties agreed a deadline of 24 February 2026 for submission of a completed statement of common ground (SOCG). The SOCG was finally signed close to the date of the Inquiry; by the Council on 19 March 2026 and by the appellant's planning consultant one day later.
6. There was clearly some delay on the Council's part in completing and signing the SOCG, as evidenced through a chain of 'chasing' emails from the applicant's

agent. However, I have no reason to doubt the extenuating personal circumstances of the Council's officer who was absent from work during the lead-up to the Inquiry. It is clearly this that had the cumulative effect of delaying the progress towards completing the SOCG. It is also clear from the exchange of emails that the Council were responsive to the appellant's agent's enquiries and were actively seeking to progress the SOCG in the Council officer's absence.

7. Given these circumstances I find the Council's delay overall was neither deliberate or negligent and does not represent a lack of cooperation with the applicant's agent.
8. Moreover, nothing in the completed SOCG, even if it had been submitted on time, negated the need for the appellant's planning witnesses to be present and give evidence at the Inquiry relating to their proofs of evidence, including in response to my own questions. It is true that the list of conditions required some discussion, but that is not unusual in the context of oral appeal events.
9. As such, unreasonable behaviour has not been demonstrated with regard to this matter.

Prior investigation, issuing of enforcement notices

10. The question of whether it is expedient for a Council to issue a planning enforcement notice is not a matter for me to consider. However, s.172(1)(a) of the Act provides that a Council may issue a notice *where it appears to them that there has been a breach of planning control*.
11. As to whether the Council carried out adequate prior investigation before issuing the notices, the number and dates of Council officer visits to the appeal site are documented. The Council also issued a planning contravention notice to seek information, and were in possession of photographs, notes, and noise and disturbance complaints from local residents and Councillors. While there then followed a long hiatus before issuing the notices it was not unreasonable for the Council to rely on the cumulation of information before them. Overall it seems to me that they had carried out adequate prior investigation. In the absence of any contrary information to indicate to them that the situation on the ground had altered in any significant way, it was not unreasonable for them to issue the notices.
12. In respect of the material change of use notice, and having regard to the Council's proofs and appendices, I disagree that the Council failed to investigate or substantiate its case. Moreover, on legal grounds of appeal against an enforcement notice, including ground (c), the onus is on the appellant to provide sufficient evidence as to why an allegation does not constitute a breach of planning control.
13. It was not unreasonable for the Council to rely on complaints and information from residents and Councillors in relation to noise and disturbance allegations. As with any planning application where permission is being sought for development that has the potential for noise emissions, it is for the applicant/appellant to provide sufficient evidence to demonstrate unacceptable levels of noise and disturbance do not or would not occur.
14. It is true that the plans attached to the notices were not precisely accurate in identifying the land affected, but this was a minor error, capable of correction without injustice. The need for a revised plan was also listed as a matter not in

dispute between the parties in the SOCG. This matter did not delay or extend the Inquiry sitting days or lead to any substantial extra evidence being provided by the applicant's planning team.

15. While not necessary to do so there is nothing unreasonable in a Council issuing two alternative notices alleging different breaches of planning control. An appellant can choose to appeal either or both of them. If both are appealed the correct breach in one notice can be confirmed resulting in the quashing of the other. In contrast, were it the case that only one notice was issued and subsequently quashed, the Council could then issue another correct version which could result in a second appeal. Issuing notices in the alternative avoids this situation.
16. Moreover, in this particular case, had the two breaches of planning control been separately specified in a single notice it seems to me that the applicant's grounds of appeal, and related arguments and need for evidence to support them, would not have been significantly different to that before the Inquiry in respect of both notices.
17. In light of all the disputed evidence before me at the Inquiry I do not consider that an appeal could have been avoided by more diligent investigation, regardless of whether there had been a single combined notice alleging two separate breaches, or two separate notices as was the case.
18. Costs can only be awarded where a party has behaved unreasonably and that unreasonable behaviour has resulted in unnecessary or wasted expense.
19. For the reasons I have set out above unreasonable behaviour has not been demonstrated and the application is refused.

Thomas Shields

INSPECTOR