



Costs Decision

Hearing held on 11 August 2026

Site visit made on 11 August 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date 03 September 2026

Costs application in relation to Appeal Ref: APP/F1040/C/26/3378441

Land to the South of Woodville Road, Swadlincote, DE12 6LY

- 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 South Derbyshire District Council for a partial award of costs against Mr Sean Rogers.
 - The appeal was against the refusal of planning permission for change of use of land to form a 3 pitch family Gypsy and Traveller site and creation of new access road.
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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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council submit that the appellant acted unreasonably in relation to the withdrawal of the day rooms from the application on the basis that the appellant's position at that time was that the rooms were not needed, this position was then reversed as part of the appeal. The appellant also built a substandard dayroom in clear breach of a Stop Notice in force on the site. The Council considers that the removal of the day rooms from the scheme was a disingenuous amendment that sought to address reasons for refusal which alternative measures, specifically the requested investigation works, may have adequately addressed. The subsequent appeal submission was further confusing as it reintroduced the day rooms to the description of the proposed development.
4. It is the Council's view that the appellant behaved unreasonably in relation to procedural matters having regard to the PPG which states that an appellant is at risk of an award of costs where there has been, for example:

*"Resistance to, or lack of co-operation with the other party or parties in providing information, discussing the application or appeal, or in responding to a planning contravention notice."*¹

The Council contend that removal of the day rooms from the application and subsequent erection of a building on the site has led to additional work for Officers.

¹ PPG: 052 Reference ID: 16-052-2014306.

The Council incurred extra time and expenses in investigating the unlawful nature of the erection and defending this reason for refusal, which could have been addressed had the appellant chosen to commission the required information during the application process.

5. In response, the appellant contends that the day rooms were removed from the planning application in good faith to overcome an objection from the Coal Mining Authority. The Council accepted the revised plans and a revised description of the proposal prior to them determining the application. Any future need for a day room would have been the subject of a further planning application if the change of use had been granted and that application would have been accompanied by the requisite coal mining investigation report. However, the appellant was content that the revised proposal would meet the families' immediate needs. The later construction of the wooden shed on the site was not part of the planning application and a matter for the Council's enforcement team. It has subsequently been removed from the site and any costs incurred by the Council have not been as a result of the appeal process. The appeal submission did not reintroduce the day rooms, the evidence was clear that the appeal was made on the basis of the revised plans that were before the Council when they made their decision.
6. PPG advises that appellants are required to behave reasonably in relation to procedural matters on the appeal, for example by complying with the requirements and deadlines of the appeals process.
7. From the evidence before me, the appellant removed the day rooms from the planning application to deal with a specific objection from the Coal Authority. Revised Plans were provided and accepted by the local planning authority prior to them determining the application and based on an agreed revised description of development. That revised description is clearly set out on the Council's decision notice, dated 11 March 2026 which described the proposal as: "The change of use of open grazing land to a form a 3 pitch family gypsy and traveller site and the creation of a new access road."
8. There is no evidence that during the appeal process the appellant sought to introduce the day rooms and seek consent for them. Indeed, the accompanying grounds of appeal clearly states: *"with regard to reason for refusal 1, we will show, following the removal of the day rooms from the development, that proposals are an exempt form of development as set out in Part B of the NPPG Planning applications and Coal Mining Risk Assessments dated 27/2/2025."* It seems to me, that the removal of the day rooms was an attempt by the appellant during the application process to seek to narrow any potential reasons for refusal and thus issues that may arise at appeal. There is no evidence that in removing the dayrooms prior to the Council's decision to refuse the application, has resulted in the Council incurring any unnecessary costs or wasted expense in the appeal process.
9. I understand that a wooden shed was subsequently erected on the site without planning consent to provide some sanitation for the appellant families. Following discussions with the Council this has now been removed. However, that shed did not form part of the planning application and this appeal, and thus any expense incurred by the Council because of investigating the unauthorised development has not been incurred as a result of the appeal process.

10. For the reasons given above, there is no evidence that the appellant acted unreasonably procedurally with regard to matters relating to the day rooms. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated.

Elizabeth Pleasant

INSPECTOR