
Costs Decision

Hearing held on 28 July 2026

Site visit made on 28 July 2026

by R Merrett BSc(Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2026

Costs application in relation to Appeal Ref: APP/P0119/C/26/3378284

Land Adjacent to Orchard Farm Cottage, Pomphrey Hill, Mangotsfield BS16 9NF

- 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 James McDonagh for a full award of costs against South Gloucestershire Council.
 - The appeal was against an enforcement notice alleging Without planning permission, the change of use of land to a residential caravan site and associated operational development including the importation and laying of hardcore to level the site and the erection of a building.
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Decision

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

The submissions for Mr James McDonagh

2. The costs application was made orally at the Hearing. The first element of the claim is in relation to the ground (e) appeal. They say the Council was required to carry out adequate investigation, however no attempt was made to discover the names of the caravan occupants, such as through the service of a Planning Contravention Notice (PCN). Any previous failure by other family members to respond to PCNs in relation to other sites is not an adequate defence. Furthermore, there is a lack of evidence that proper service of the notice was effected, and the Council failed in its statutory duties which led to the full cost of the appeal.
3. In the alternative, if there was effective service, there cannot have been a rational interpretation that the land strongly contributes to the prevention of urban sprawl, because the land is previously developed and therefore already contributes to sprawl. The appeal was therefore indisputably on grey belt land, and the Council should have invited a retrospective planning application. The Council has failed to adequately consider national policy, and the service of the enforcement notice was implausible.

The response by South Gloucestershire Council

4. The response was made orally at the Hearing. The Council says that previous attempts to serve PCNs in relation to other land owned by the McDonagh family have not been met with a response.
5. The Council wrote to the appellant, advising that works should cease and a retrospective application be made. However, no such application was forthcoming. Also, whether the land was grey belt, was a matter of planning judgment.

Reasons

6. 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.
7. The PPG sets out that for enforcement action, local planning authorities must carry out adequate prior investigation. However, the service of a PCN is not mandatory. Section 329(2) of the 1990 Act makes it clear that an acceptable method of serving the notice on an occupier of the premises, would be by ensuring the notice is so addressed (describing the premises) and plainly identifiable as a communication of importance; and then by affixing the notice conspicuously to an object on the premises.
8. Whilst I found that adequate service of the notice could not be demonstrated, because of the vague manner in which this was recorded, I am not persuaded this shortcoming equates to unreasonable behaviour. Furthermore, I found that site occupiers would not have been substantially prejudiced by this situation, and thus the failure to serve adequately did not result in the costs of the appeal being unnecessarily incurred.
9. With regard to the second aspect of the claim, there is no dispute as to the previously developed status of the site. However, this in itself did not make it inevitable that the site did not contribute strongly to checking unrestricted sprawl. For example, before reaching such a conclusion, it would be reasonable to consider other factors, in accordance with the PPG, and therefore to make a fact and degree assessment in the round. Thus, whilst I concluded the land did have grey belt status, this conclusion was not 'inevitable' and is a matter where the exercise of professional judgement comes into play. The Council were thus entitled to form the view that the appeal site did not constitute grey belt land.
10. Leading on from this, the Council's opposition to the scheme on grounds of character and appearance and concern about ground contamination were also matters of professional judgment. The success of a retrospective planning application was not therefore inevitable, and as such the service of the enforcement notice was not implausible.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

R Merrett

INSPECTOR