
Costs Decision

Inquiry held on 14, 15, 16, 29 April, 21 and 23 July 2026

Site visit made on 15 April 2026

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 October 2026

Costs application in relation to:

Appeal A Ref: APP/E2001/C/25/3370890

Appeal B Ref: APP/E2001/C/25/3370891

Appeal C Ref: APP/E2001/C/25/3370892

Appeal D Ref: APP/E2001/C/25/3370893

Appeal E Ref: APP/E2001/C/25/3370894

Appeal F Ref: APP/E2001/C/25/3370895

Grange Farm, Laytham Road, Foggathorpe, East Riding of Yorkshire YO8 6PR

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by East Riding of Yorkshire Council for a partial award of costs against Foggathorpe Estate Limited, Mr A Savage, Mr R Anderson, Mr R Glover, Ms A Tarasenko and Mr D Fielder.
 - The inquiry was in connection with appeals against an enforcement notice alleging, without planning permission, the erection of four dwellinghouses and the associated material change of use of agricultural land to residential use and associated operational development to facilitate the material change of use, being the erection of timber fencing and creation of areas of hardstanding.
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Decision

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

The submissions for East Riding of Yorkshire Council (the applicant)

2. The costs application was made orally at the inquiry and in writing. The applicant contends that the following actions of the respondents were unreasonable:
 - The response to a planning contravention notice (PCN) made by one of the respondents, if correct, renders the ground (d) appeal hopeless.
 - If the PCN response was incorrect, as the applicants believe, it amounts to concealment.

The response by Foggathorpe Estate Limited, Mr A Savage, Mr R Anderson, Mr R Glover, Ms A Tarasenko and Mr D Fielder (the respondents)

3. The response was made in writing. Much of it duplicates criticism of the applicant's actions, which is dealt with in a separate costs decision. As for the respondents' actions, they contend that the PCN response was accurate, based on memory at the time, but further investigation following the issue of the notice found the facts to be different.

Reasons

4. 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.
5. The applicant seeks an award of costs in respect of the appeals on ground (d) only. Central to the application, and my deliberations on that ground of appeal, are the differences of between 6 and 19 months in key dates between the PCN response and the evidence subsequently produced in the appeals.
6. There were 2 responses to the PCN. The first confirmed that each dwellinghouse was first let “as they were completed,” meaning that the date of substantial completion of each unit aligned with its first residential occupation. This response did not provide a date of first residential occupation for any of the 4 dwellinghouses the subject of the appeals. The second response gave 4 different dates for their first occupation: August 2021, October 2021, March 2022 and September 2022. The last of those dates was the first occupation of unit 6, which other evidence confirms had been substantially completed earlier but had been used as a welfare facility in the interim. Setting that aside, when the PCN responses are read together, they give a picture of staggered completions over a 7-month period.
7. As noted in the main decisions, it is unclear why the responses to the PCN did that when the applicants now say the 4 dwellinghouses were completed simultaneously. The PCN response was made by the leading actor in the works, David Fielder, and while I must accept that memory can fail, I cannot accept that he did not know whether he had completed the dwellinghouses together or at different times. That is too fundamental to the project he was leading to be mistaken. However, and for the reasons given in the main decisions, I do not consider this amounted to deliberate concealment or statements that he knew to be untrue.
8. The electricity payment records produced after the notice was issued do not identify the units they relate to, 3 only identifying ‘Grange Farm’ and one giving no property details at all. It is only possible to link the records to specific units by concluding that the email addresses of the payees correspond to known occupiers. In some instances, e.g. ‘ssiamskippy’ and ‘muckymuckster’ that is not possible.
9. Nevertheless, when added to the evidence of Mr Fitzgerald, Mr Johnson, Mr de Cobain and Mr Claybourn, those records have helped to demonstrate completion of all 4 dwellinghouses before 25 June 2021. Why Mr Fielder gave 4 different completion dates in his second PCN response when, as he affirmed, he had considered invoices and asked other individuals, is a mystery. I can only conclude that he failed to treat the questions asked in the PCN with sufficient seriousness. Had he done so and provided completion dates and supporting evidence consistent with that presented in the appeals, the notice may not have been issued or might not have attacked the erection of the 4 dwellinghouses.
10. The failure to address the questions asked in the PCN with sufficient seriousness was unreasonable behaviour that gave the applicant reasonable cause to continue to resist the appeals on ground (d) and to seek to test the relevant evidence. Its costs in doing so may therefore be attributed to the unreasonable behaviour.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Foggathorpe Estate Limited, Mr A Savage, Mr R Anderson, Mr R Glover, Ms A Tarasenko and Mr D Fielder shall pay to East Riding of Yorkshire Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the appeals on ground (d); such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Foggathorpe Estate Limited, Mr A Savage, Mr R Anderson, Mr R Glover, Ms A Tarasenko and Mr D Fielder, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mark Harbottle

INSPECTOR