
Costs Decision

Site visit made on 30 September 2026

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 October 2026

Costs application in relation to Appeal Ref: APP/Q1153/C/25/3365085

Land at Kellands Lane, Kellands Lane, Okehampton, Devon, EX20 1FQ

- 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 West Devon Borough Council for a full award of costs against Leander Developments Ltd.
 - The appeal was against an enforcement notice alleging erection of a concrete blockwork structure.
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Decision

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

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.

The Council's Case for Costs

3. The Council claims that the Appellant company provided no evidence in support of its case, save for the submission of the appeal form. It says that even though it has not withdrawn the appeal, the company's actions, and by this it means its compliance with the terms of the Notice, are tantamount to its withdrawing the appeal. The Council cites the PPG where it says that if an appeal is withdrawn with no material change in circumstances, an award of costs may be made.
4. The Council goes on to say that it is clear that what occurred was not permitted development, as claimed, and the steps required by the Notice were not excessive. These actions, it says, were unreasonable and led to wasted and unnecessary expense.

The Appellant's response

5. The Appellant says that it kept to the Planning Inspectorate's timetable for submissions and made its case in a timely manner. The Council's comments in this respect were premature. The Appellant goes on to say that it did not withdraw the appeal, nor comply with the requirements of the Notice. If its appeal is successful, it will reinstate the wall.

Findings

6. The Council's claim that the Appellant's actions were tantamount to withdrawing the appeal, I find to be erroneous. The Appellant explained that he did not demolish the

- wall, but made it safe after a third-party damaged it. He could not then rebuild it, he says, due to a stop notice issued by the Council. The Appellant was entitled to pursue his appeal, which he did not state at any time to be withdrawn. If he was successful in his Ground (c) appeal, he would have been able to re-erect the wall.
7. Where I find the Appellant to have acted unreasonably was in the case put forward in support of his Ground (c) case. He relied upon what he says is a quote from the Planning Portal in relation to the erection of walls, fences and gates, though he did not provide a copy of that guidance in its entirety.
 8. I cannot conclude that the quote was selected in the way it was to avoid reference to the requirement for a wall to be a means of enclosure to be permitted development. However, the Appellant company did not address this matter at any time. As it stated what it had done was permitted development, it was incumbent for the Appellant company to have referred to the actual legislation rather than non-statutory guidance. Had it addressed the terms of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, the question of enclosure would have had to have been addressed. Realistically, this could only have led to the conclusion that the linear wall, which was designed to block off the use of the road, did not enclose land and was not permitted development.
 9. The Council's claim that the Appellant provided no support for its case is wrong. That position seems to have been based on the content of the appeal form. As the Appellant says, he provided what was necessary at that stage and thereafter provided his case in a timely manner.
 10. The Appellant's Ground (f) case was not going to succeed. The reason for issuing the Notice was to remedy the breach of planning control so, without a Ground (a) appeal, the retention of the wall in a remodelled form could not be sanctioned. However, this is a relatively complicated area that, in my experience, is commonly argued incorrectly by professional planning agents and Councils. It was incorrect but was not an unreasonable act.
 11. This differs from the question of Class A of the GPDO. When claiming the wall to be permitted development, the Appellant should have referred to the actual legislation rather than non-statutory guidance. That it did not was unreasonable behaviour that led to unnecessary expense

Costs Order

12. 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 Leander Developments Ltd shall pay to West Devon Borough Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of Ground (c) of the appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Leander Developments Ltd, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Curnow

INSPECTOR