Planning Inspectorate

Costs Decision

Inquiry held on

Inquiry held on 8, 9, 10 and 24 September 2026

Site visit made on 10 September 2026

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2026

Costs application A)
in relation to Appeal Ref: APP/Y1138/X/26/3378579
Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon EX16 8RZ

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mid Devon District Council for a full award of costs against Mr Dean Aggett.
- The inquiry was in connection with an appeal against the refusal of the Council to issue a certificate of lawful use or development (LDC) "To establish the Lawful Mixed (Composite) Use of a building as a Blacksmith Forge and for residential purposes plus the use of the land outside of the building for the storage of materials, goods, products chattels, scrap, vehicles and waste materials contrary to Conditions 2 and 5 imposed upon Planning Permission 09/01587/FULL."

Costs application B)
in relation to Appeal Ref: APP/Y1138/X/26/3378579
Meadow Forge, Hillside Barn, Cadeleigh, Tiverton, Devon EX16 8RZ

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Dean Aggett for a full award of costs against Mid Devon District Council.
- The inquiry was in connection with an appeal against the refusal of the Council to issue a certificate of lawful use or development (LDC) "To establish the Lawful Mixed (Composite) Use of a building as a Blacksmith Forge and for residential purposes plus the use of the land outside of the building for the storage of materials, goods, products chattels, scrap, vehicles and waste materials contrary to Conditions 2 and 5 imposed upon Planning Permission 09/01587/FULL.".

Decision A

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

Decision B

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

Preliminary Matters

3. It is normal procedure to refer to the applicant for costs as the "applicant", the responded for costs as the "respondent". However, given that there is merit in combing both decisions in one document, I will generally refer to the appellant and the Council to hopefully save confusion between these decisions as well as the related appeal decision.

The submissions and responses

4. The costs applications were both submitted in writing but with further oral submissions when the inquiry resumed on 24 September. The responses were also in writing. I will not therefore reproduce the cases here. The inquiry was closed in writing after the costs procedures were completed.

Reasons

5. 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.

6. The Council has regularly been given incorrect information by the appellant about the appeal site since the early days of their investigations. This has included incorrect responses to Planning Contravention Notices (PCNs) and when Council officers have visited. I have referred to the implications of this in the appeal decision. Furthermore, the appellant has attempted to disregard his responses to the PCNs by now claiming that he was living at the site all along since before he submitted the 2009 planning application. The Council didn't refer to these matters on their decision notice but they are fundamental to the case and were raised in the appeal documents which the appellant has had an opportunity to address.

7. The PPG states that "Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded." The appellant's responses during earlier investigations were not always accurate or reliable. Greater clarity and reliability at that stage may have simplified the Council's investigations and may even have avoided some of the procedural steps that subsequently became necessary. However, the issue for me is whether such conduct resulted in unreasonable behaviour causing unnecessary or wasted expense in these appeal proceedings. Even if more accurate information had been provided at an earlier stage, it is likely that there would have remained a substantive disagreement between the parties requiring determination through the appeal process at some point.

8. The LDC application was submitted in response to the service of Breach of Condition Notices (BCNs) for which no right of appeal exists to the Secretary of State. Given my finding that a material change of use had occurred, the critical issue was whether the use of the site had moved beyond the scope of the 2009 planning permission, rather than whether conditions attached to that permission had been breached for long enough to be immune from enforcement action. The BCNs provided the immediate impetus for the application and subsequent appeal, and the parties focused their attention on the alleged condition breaches. It was reasonable for both parties subsequently to broaden their cases in order to address the wider relevant issues once it became apparent that they were significant in the determination of the appeal. That included the respective arguments about how active or not the forge still is and also the extent of the planning unit. The appeal has turned into a review of the planning history of the appeal site since 2009 and it was necessary to consider those wider issues. Neither party was therefore unreasonable in widening their arguments and evidence at the appeal stage.

9. When considering the LDC application, the Council's case officer did not visit the site. The case officer was not available to give evidence because they are on maternity leave, but Mr Devereaux did give evidence to the inquiry. He was the senior officer who was involved in agreeing the decision. His view is that for existing use LDCs, the case is considered upon the submitted evidence and the applicant needs to prove their case meaning a site visit may not be necessary. He is not wrong in pointing out the burden of proof and how LDCs, especially those for existing use or development, need to be considered.

10. I find it a little surprising however that the Council didn't use the submission of the application as an opportunity to consider the site fully given the history and the nature of the allegations being made. However, that is their choice given the resources as well as work pressures and it is not for me to decide what is best practice. The way that the application was dealt with was not unreasonable. I have agreed with the Council's decision to refuse to issue the LDC that was put in front of them and the decision was well founded.

11. The Council's case files were not all available to the appellant prior to the appeal. They did go through requests for information in the formal way required and it is not for me to re-assess that process. The evidence that the Council relies upon in the appeal has been disclosed as part of the appeal proceedings even if some of their records contain limited in detail. The appellant's consultancy team includes personnel who may have been able to elaborate on some of that evidence given their historic involvement when they worked for the Council but for whatever reason, the appellant did not call on them to give evidence.

12. The allegations that the appellant had used 'post-it' notes to assist him with giving evidence has resulted in witnesses under oath representing each party stating opposite versions of what they saw. The Council had valid concerns. The timing of this coming to light was unfortunate. The Council officer Mrs Radley only discussed it with the Council team after the end of the first day of the inquiry and she was then on leave for the remainder of the inquiry. Whilst I was offered a witness statement from her on the third day, I did not accept it because I felt that doing so would not allow the appellant to put forward a case to address those matters. In the circumstances, I saw little option other than reconvening the inquiry although various options were discussed such as an on-line session.

13. Had these allegations been made earlier when Mrs Radley could have given evidence, even if that involved a degree of interruption of the Council team, it could have been addressed there and then. The matter could have been raised with me so that I could ask to see the bundle for myself soon after it had been noticed. These matters were discussed on the second morning and I was able to look at Mr Aggett's folder although that was after the Council had initially been refused access to it. It was suggested that 'post-it' labels by then had been removed. In my experience, witnesses do sometimes make their own marks on their own notes which they use when giving evidence and do not always use a clean shared copy. Ultimately after further evidence was submitted and heard on the fourth day, there was no clear picture of what precisely had taken place, or whether Mr Aggett received improper prompts that affected whether it was truly his evidence as he had attested to. It was however important to have aired the allegation and for both parties to have had their say in order to demonstrate the openness of the inquiry process. Although unfortunate, this did not demonstrate unreasonable behaviour by the Council.

Conclusion

14. Drawing these matters together, neither party has demonstrated that the other behaved unreasonably in a manner that caused unnecessary or wasted expense in the appeal process. Whilst aspects of the conduct of both parties are open to criticism, their substantive cases were put reasonably and they followed the correct procedures.

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in relation to either of the applications for costs.

Andy Harwood

INSPECTOR