Planning Inspectorate

Costs Decision

Site visit made on 10 November 2026

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2026

Costs application in relation to Appeal Ref: APP/U2235/W/25/3373330
Land at Lawton Place, Benover Road, Yalding, Kent, ME18 6AU

- 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 Mr Martin Botha for a full award of costs against Maidstone Borough Council.
- The appeal was against the refusal of planning permission for a development described as 'Proposed change of use from Agricultural Land to a Storage facility for Touring Caravans (B8) with a new access'
- This decision supersedes that issued on 11 March 2026. That decision was quashed by order of the High Court.

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. In this instance, the applicant is of the view the Council prevented or delayed development which should clearly have been permitted when considering the evidence submitted, and that the Council failed to substantiate each reason for refusal on appeal.

4. After assessing the information originally submitted with the planning application, several consultees had raised concerns. These included the Conservation Officer identifying less than substantial harm to designated heritage assets and the Local Highway Authority, Lead Local Flood Authority and the Council's ecologist issuing objections due to an absence of information.

5. The applicant was aware of these concerns and issued a response prior to the Council's determination which sought to address the concerns raised by consultees and interested parties. However, it did not adequately deal with biodiversity net gain or the impact on Great Crested Newts (GCN). Indeed, there is no apparent input from an ecologist or a discussion regarding the implications of the licensing regime. Moreover, in response to the comments from the Local Highway Authority, tracking drawings and a plan demonstrating that the visibility splays would be free from obstruction were not provided.

6. Given the extent of hard surfacing being proposed, it was not unreasonable for the Lead Local Flood Authority to seek a surface water drainage scheme prior to

determination and for the Council to adopt this position. The applicant's response sought to address this, but it was not prepared by a drainage expert. The applicant's response also sought to address concerns regarding the effect on the setting of listed buildings, but it only focussed on The Glass House.

7. Considering the above, the Council's decision to refuse was not preventing development that should clearly have been permitted. Indeed, there were several unresolved technical issues. In any event, the Council had concerns with the principle of the proposal given the landscape and heritage effects. The applicant had responded to the concerns raised, but that response had not adequately addressed the concerns identified by the Council. Thus, it appeared that the parties had reached fundamentally different planning judgments. A refusal without further engagement was not unreasonable in these circumstances, especially as there is a public interest in progressing cases in a timely manner and in the certainty of a decision. The reasons for refusal were properly articulated, grounded in planning policy and supported by the evidence of expert consultees.

8. Following the Council's decision, the subsequent appeal was submitted with an extensive body of new evidence and some amendments. This would not have been necessary had the information submitted with the application been adequate. In particular, the Preliminary Ecological Assessment (PEA), Great Crested Newt District Level Licensing Impact Assessment and Conservation Payment Certificate (IACPC), Highway Statement, Arboricultural Assessment and Surface Water Drainage Strategy was necessary technical evidence given the matters in hand. Therefore, providing them was not a disproportionate exercise.

9. The Landscape and Visual Impact Assessment (LVIA) and the new Heritage Assessment were not 'required' by the Council. Instead, they were optional submissions made by the applicant to assist their case made at appeal. Indeed, the application was not refused in the absence of these documents.

10. It is evident that the Council reviewed the suite of documents submitted by the applicant at the appeal stage. The Council provided a detailed rebuttal of the LVIA and Heritage Statement and maintained its objection. The concerns raised reflected matters of planning judgment on which reasonable decision-makers could differ. Indeed, I have ultimately shared the Council's views on these points.

11. Whilst the reasons for refusal were reasonable at the time of determination, the Council's approach at the appeal stage is less clear in respect of those relating to highway safety, biodiversity and drainage. This is because the author of the Council's appeal statement principally directs the reader to the comments of other consultees in respect of these matters. This approach is unsatisfactory as it is the Council's decision being challenged, not consultees. As such, the Council should have clearly confirmed whether it was maintaining an objection despite the additional information supplied and, if so, explained why.

12. The Council briefly refers to the absence of ecological surveys as a problem but does not comment on the IACPC. Furthermore, it briefly suggested that the Local Highway Authority was objecting when they had indicated a conditional approval would be acceptable. The Council's approach in seemingly maintaining the objections articulated in Reasons for Refusal 3 to 6, without properly substantiating them, constituted unreasonable behaviour. However, in this instance the consequences of that unreasonable behaviour were minimal.

13. Indeed, reviewing the relevant part of the Council's statement would have taken very little time and the applicant only needed to provide brief final comments in response. These mainly cross-referenced the evidence already submitted and some of the points made were addressing the concerns raised by interested parties in any event, which would likely have been done regardless of what the Council had said. Accordingly, whilst some unreasonable behaviour occurred, it did not result in unnecessary or wasted expense.

Conclusion

14. For the reasons given, unreasonable behaviour resulting in unnecessary or wasted expense has not arisen and consequently an award of costs is not warranted.

Graham Chamberlain
INSPECTOR