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## Costs Decision

Hearing held on 27 January 2026

Site visit made on 26 January 2026 (unaccompanied) and 28 January 2026 (accompanied)

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2026

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### **Costs application in relation to Appeal Ref: 6001099**

#### **Havering Park Stables, Bower Farm Road, Havering-Atte-Bower, Romford RM4 1QR**

- 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 Adam Smyth and Richard Harris for a partial award of costs against the Council of the London Borough of Havering.
  - The appeal was against the refusal of planning permission for Conversion of existing building to form two residential dwellings (Class C3) and alterations to enlarge the retained residential dwelling (Class C3). Demolition of the remaining buildings and structures on the site and construction of 6 residential dwellings (Class C3) together with associated car parking, landscaping, highways and infrastructure works.
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### **Decision**

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

### **Procedural Matter**

2. The application for costs was submitted in writing at the Hearing. As I agreed with the parties, the Council's response to the application and final comments for the applicants proceeded through written submissions following the close of the Hearing. Because the submissions were made in writing, they are a matter of record and it is not necessary to rehearse them here.

### **Reasons**

3. 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.
4. The PPG sets out that awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. The applicants are making their application on both grounds.
5. A local planning authority is required to behave reasonably in relation to procedural matters at the appeal. The applicants assert that the Council did not submit all the relevant documents alongside the questionnaire, including some statutory consultee responses. Appeal documents were not all uploaded to the website to enable interested parties to access them. Other information was provided late and

- the Council did not agree a statement of common ground (SoCG) in a timely manner. In addition, reasons for refusal were withdrawn at appeal stage.
6. The PPG also advises 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.
  7. Despite various requests by the applicants for feedback during the application process, there is evidence of prolonged periods of very limited communication by the Council. Notably, there is evidence of a significant delay of around 4 months in sharing the ecologist's consultation response of 11 February 2025. Once feedback was received, further delays were unavoidable whilst the applicants prepared its response which then required further consultation with statutory consultees.
  8. The applicants had agreed to several extensions of time but ultimately declined to grant any further extensions, choosing instead to proceed to appeal. The Council therefore determined the application on 13 August 2025. As objections on highways, protected species and Biodiversity Net Gain (BNG) remained unresolved, these were included as reasons for refusal. This was not unreasonable.
  9. Had feedback been provided to the applicants earlier, the necessary technical reports might also have been completed sooner, potentially narrowing the reasons for refusal. However, the applicants sought a determination despite knowing that updated highways information, outstanding ecological survey work, and the ecologist's response were awaited. Several of the required technical documents—such as reptile and badger surveys—had been identified at pre-application stage in 2023. It was open to the applicants to provide these at the point of submission.
  10. Updated highways data and the outstanding ecological surveys were subsequently submitted at appeal, and further consultation confirmed that these matters were capable of being addressed by conditions. Nevertheless, there were avoidable delays in the Council providing its substantive ecological response; due to officer leave and the Christmas period, the applicants did not receive this until 6 January 2026. This delay, although partly an administrative oversight, was unhelpful.
  11. There is no evidence that the technical documents submitted at appeal were unnecessary. They were required to demonstrate that protected species would not be harmed, that BNG could be achieved, and that highways concerns could be resolved. As these inputs were essential, it would not be appropriate to award costs for their preparation.
  12. I cannot conclude that improved communication would have avoided the need for an appeal, as the Council considered the proposal unacceptable for other reasons. Earlier feedback may have narrowed the matters in dispute, but the applicants could equally have allowed the consultation process to conclude and responded to objections before determination. Although their frustration with delays is noted, work was ongoing to resolve several issues when the applicants declined to agree further extensions. A more proactive approach from the Council in sharing consultee responses could, however, have enabled earlier resolution of certain matters.

13. My finding is therefore that the failure of the Council to provide statutory consultee responses during the application stage in a timely manner, deprived the applicants of a reasonable opportunity to address concerns. While the technical information was required in any event, the Council's unreasonable behaviour resulted in additional work at appeal in preparing submissions to defend the refusal reasons relating to highways, protected species and BNG, though not in the preparation of the technical evidence itself.
14. Place Services provided comments on arboricultural matters prior to the Council's determination of the application, confirming support for the scheme subject to the imposition of planning conditions. This information was not disclosed to the applicants. The Council's subsequent reason for refusal, which cited inadequate arboricultural information, was therefore incorrect in light of that consultee response and amounts to unreasonable behaviour. Although the applicants submitted further arboricultural material at appeal, this was not necessary given the position already set out by Place Services, and the associated costs represent unnecessary and wasted expense. However, to the extent that any of this work is later required to discharge conditions, those elements would not amount to wasted expenditure.
15. The duty is upon the Council to upload the correct documents. The applicants would have invested some time in checking the appeal documents and then highlighting their absence either to the Inspectorate or the Council. This was additional work that the applicants had to complete at the appeal stage due to unreasonable behaviour by the Council.
16. The appeal start letter set out that the SoCG was due on the 5 December 2025. The Council did not adhere to this deadline and from the evidence before me, failed to engage with the applicants in reviewing the draft SoCG. I subsequently set a later date for this once that earlier deadline had passed which was met. However, not agreeing a SoCG in a timely manner and a lack of co-operation with the other party amounts to unreasonable behaviour by the Council. In chasing this input from the Council, the applicants would have incurred some unnecessary expense.
17. The Council's planning officer did not carry out a site visit from within the appeal site at application stage but they confirmed that they viewed the site from outside. The Council's heritage consultant also visited the site with the applicants and their agent. In the appeal questionnaire, the Council has indicated that it is necessary to enter the site to fully assess the effects of the proposal, therefore in not doing so the Council has behaved unreasonably going against its own advice. However, based on the Council's written and verbal submissions, I have no evidence that had they entered the site, their judgement as to the effect of the proposal on the openness of the Green Belt and matters relating to character, appearance and heritage would have been substantively different. It follows therefore that there has not been wasted or unnecessary expense incurred at the appeal stage because of the Council's actions in this regard.
18. On the substance of the case, the applicants consider the Council has behaved unreasonably on several grounds. In summary, this included but is not limited to the Council preventing development that should be permitted having regard to local and national policy and material considerations, failing to substantiate each reason for refusal, making generalised assertions about a proposal's impacts, refusing permission on a ground capable of being dealt with by a condition and not

- reviewing its case promptly following the lodging of an appeal as part of sensible on-going case management.
19. The applicants have questioned the Council's approach due to the absence of expert evidence and detailed assessments. The officers attending in support of the Council included professionally qualified officers in planning, heritage and urban design. Furthermore, their written submissions explain their judgement in respect of these matters. It follows therefore that I do not consider the Council did not provide expert evidence to support their position.
  20. The scheme was refused for 8 reasons. The first reason relates to the Green Belt. The main thrust of the Council's argument was that there would be substantial harm to the openness of the Green Belt in both spatial and visual terms. I have found that the harm to openness would not be substantial. However, that is a matter of planning judgement. There would be a change to the site and the distribution of development within it. I am satisfied that such an assessment was possible based upon observations from outside the site and from the submitted plans and documents. Whilst the applicants did not agree with the Council, this does not mean the Council's conclusions were based upon vague, generalised or inaccurate assertions.
  21. The second reason for refusal was concerned with harm to the character and appearance of the area, predominantly to the Havering-Atte-Bower Conservation Area (the CA). The Council presented its position on this matter both within its written and verbal submissions. The Council's heritage consultee identified a low level of less than substantial harm, although I acknowledge that position was not stated in the officer report. It will be seen from my decision that I have also found less than substantial harm to the heritage asset, broadly in accordance with the statutory consultee.
  22. In its determination of the application, the Council failed to conclude on the magnitude of harm to the heritage asset and it did not carry out the balance required under paragraph 215 of the National Planning Policy Framework (the Framework). This balancing exercise was undertaken within the Council's statement of case where it concluded that the benefits do not outweigh the heritage harm. This was not fully explained. Furthermore, when questioned about what weight to give the individual public benefits of the scheme at the Hearing, the Council could not answer my questions about the weight to give to individual benefits without considerable conferring amongst its team. This suggests to me that those benefits may not have been fully considered beforehand and as part of a paragraph 215 balance.
  23. I have not agreed with the Council's conclusions and I have found that the public benefits outweigh the harm in this instance. However, the weight to be attributed to the benefits of the scheme are matters for the decision-maker. In this instance, there is nothing before me to suggest that had the Council undertaken the correct paragraph 215 balance as part of its consideration of the application, this would have resulted in a different outcome in respect of this particular reason for refusal. The Council has not behaved unreasonably in refusing the scheme on the basis of its second reason for refusal although its reasoning could have been clearer.
  24. The Council's pre-application advice indicated that the existing use was not protected by policy, while nonetheless stating that any loss of the use would require

justification. However, that advice did not identify the policy basis for such a requirement. In determining the application, the Council concluded that insufficient evidence had been provided to justify the loss of the use. Although this reflected the position set out at pre-application stage, the Council then relied on Policy 18 of the Havering Local Plan 2021 as the source of the requirement. That was inconsistent with its earlier advice and, moreover, Policy 18 does not contain a policy test requiring applicants to justify the loss of an existing use as I have set out in my decision.

25. The interpretation of policy is a matter of law but the application of those policies to the particular circumstances of the case is a matter for the decision maker. The interpretation of Policy 18 was not therefore a matter of planning judgement for the Council and it was wrong of the Council to take that approach.
26. I found that the proposal conflicted with Policy 18 insofar as it resulted in the loss of the use. However, I was unable to apply Policy 18 to require justification for that loss. Instead, the appropriate policy basis was paragraph 104 of the Framework, which the Council did not cite at application stage. As a consequence, the Council's approach lacked clarity, and the reason for refusal rested on a policy requirement that Policy 18 does not set out. This amounts to unreasonable behaviour. However, as justification was required, this has not resulted in wasted or unnecessary expense on appeal.
27. There is nothing before me to suggest that the Council based its assessment of the loss of the use on that use having been intentionally abandoned although it referred to this allegation within its officer report.
28. No planning obligation in respect of affordable housing had been secured at the time the Council made its decision. It was not therefore unreasonable for the Council to refuse the application on this ground when it did. It was also not unreasonable for the Council to withdraw any of its reasons for refusal once additional information addressing the Council's concerns had been provided.
29. As I have already outlined above, the Council did not undertake the heritage balance required under paragraph 215 of the Framework in determining the application. It also did not go on to consider whether the heritage harm provided a strong reason for refusing the development proposed, under paragraph 11 of the Framework. This was subsequently addressed in its statement of case on appeal. It should have been considered in the determination of the application and it was unreasonable of the Council to have not set this out. However, as explained within its statement of case, the Council found that the scheme was unacceptable and given this is a matter of planning judgement, there is no evidence to suggest that an appeal would have been avoided had this been explicitly covered within the Council's delegated report.
30. My findings are that on procedural grounds the Council's delays in sharing information, including statutory consultee responses, failing to upload documents and agreeing a SoCG in a timely manner amounted to unreasonable behaviour and has caused the applicants to incur unnecessary and wasted expense in the appeal process. This is intrinsically linked to the substance of the case as the failure to provide information resulted in more reasons for refusal than might have been necessary. Whilst technical information was required to overcome the reasons for refusal and would have been required at application stage, there would

nevertheless have been some expenses incurred on appeal associated with responding to these matters which could have been avoided. Likewise, unnecessary expense would have been incurred in dealing with matters which were capable of being dealt with by conditions. On other substantive grounds, I do not find the Council has behaved unreasonably in coming to a different conclusion, based on its planning judgement, than either the applicants or I did.

31. The applicants have set out that they have had to instruct consultants to provide detailed technical advice and expert evidence, but I have found those technical inputs were justified. The remaining matters in dispute and discussed at the Hearing were not matters for which I have determined there has been unnecessary or wasted expense. Whilst the applicants elected to use legal representation at the Hearing, that had no bearing on the matters for which I have awarded costs, and I consider the costs would not cover the cost of the applicants' legal representation.
32. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of both procedural and substantive matters and a partial award of costs is therefore warranted for the following:
- Undertaking checks of appeal documentation submitted by the local planning authority and notification of missing documents,
  - Agreeing the statement of common ground,
  - Preparing appeal submissions and other work undertaken in respect of contesting reasons for refusal 4 (highways), 5 (trees), 6 (protected species) and 8 (Biodiversity Net Gain).

### **Costs Order**

33. 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 Council of the London Borough of Havering shall pay to Adam Smyth and Richard Harris, the costs of the appeal proceedings described in the heading of this decision, limited to those costs associated with the additional work listed above, such costs to be assessed in the Senior Courts Costs Office if not agreed.
34. The applicants are now invited to submit to the Council of the London Borough of Havering, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Rachael Pipkin*

INSPECTOR