



Costs Decision

Site visit made on 20 May 2025

by **J Evans BA(Hons) AssocRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025

Costs application in relation to Appeal Ref: APP/Y1138/D/25/3363400

Cobble Lodge, Stockleigh English, CREDITON EX17 4DD

- 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 Ken Richards for a full award of costs against Mid Devon District Council.
The appeal was against the refusal to grant planning permission in relation to application Ref 24/01560/HOUSE for the development described as Proposed erection of a single storey front and side extension.
-

Decision

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

Reasons

2. Parties to planning appeals normally meet their own expenses. The Planning Practice Guidance ('PPG'), however, explains that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense at appeal.
3. The PPG explains that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. (Paragraph: 032 Reference ID: 16-032-20140306).
4. The applicant cites a number of procedural and substantive reasons for unreasonable behaviour by the Council, the local planning authority, which I will deal in turn as follows.
5. The applicant has referenced the time period for the decision in that the Council failed to determine the application within the eight week timeline of the 11 December 2024, a decision was made on the 14 February 2025.
6. The PPG sets out that in circumstances where a local planning authority fails to determine an application within the time limits, it should give the applicant a proper explanation (Paragraph: 048 Reference ID: 16-048-20140306).
7. From the information provided to me, it is clear that the Council engaged with the applicant's agent a number of times over the time period during which the appeal proposal was under consideration. From the e mail correspondence I have been provided with, it is evident that the applicant's agent had agreed an extension of time up until 14th February 2025.

8. It is also evident that discussions were ongoing through this dialogue, and amended plans were submitted by the applicant on 22 January 2025 for consideration by the Council.
9. As it is clear that the Council were engaging throughout the process with the applicant's planning agent and that extensions of time had been agreed, I am satisfied that a proper explanation for the Council exceeding the time limit has been provided and that the Council did not act unreasonably in this regard.
10. The applicant has also raised a further procedural application for costs on the basis that the consultee response from the Council's conservation officer was received *'two weeks after the consultation period had ended for the application.'*
11. However, it is not clear to me how this has resulted in unnecessary or wasted expense in submitting an appeal. As set out above, there was ongoing engagement between the Council and the applicant's agent up until a decision was reached, and extensions of time were agreed.
12. Evidently it is clear that each party had differing views on the appeal proposal's effects, but nonetheless agreed discussions were taking place between each party seeking to try and reach an agreed solution. Ultimately this did not happen, and therefore it was inevitable that the Council would refuse the appeal application and the applicant would submit an appeal as they had set out. A decision was issued by the Council within the agreed extension of time period.
13. I therefore find that with regard to the above, unreasonable behaviour by the Council has not been demonstrated and the appellant has not incurred unnecessary or wasted expense in pursuing the appeal.
14. On substantive reasons, the applicant argues that the decision notice does not appropriately substantiate the Council's concerns with the appeal proposal or clearly express the harm that would be caused to the appeal building and the surrounding area, including the Stockleigh English Conservation Area (the CA) in which the appeal site is located. The appellant contends that the decision notice was based on vague, generalised and inaccurate assertions about the proposal's impact, unsupported by objective analysis.
15. From my review of the decision notice, the Council have expressed that their concerns relate to their view that the proposal *'...would not retain the building's external appearance of a long, straight structure.'* This is not a vague or generalised assertion in my view, it is clear to me what the Council's concerns are with the appeal proposal. I also do not consider it would be inaccurate to describe the appeal property as having the *'...external appearance of a long, straight structure.'*
16. Whether or not the appeal proposal is compatible or not, with the character and appearance of the area, including the prevailing pattern of the development nearby, and the CA, is a matter of planning judgment, which by its very nature is subjective. It is not irrational or unreasonable for differing parties to have differing views on such subjective matters.
17. I also find it difficult to understand why there being no Conservation Area Appraisal for the CA would result in it not being possible for the Council to reach an objective analysis of the appeal proposal. The quoted paragraph 206 from the Framework by

the applicant does not require a Conservation Area Appraisal to be undertaken and be in place to reach an informed conclusion on a proposal's effect on a CA.

18. Irrespective of whether the Council have produced a Conservation Area Appraisal or not, the original application that is subject to the appeal was accompanied via a Design and Access Statement which states that *'The purpose of the planning statement is to provide the local planning authority with relevant background information to the proposal and the necessary objective criteria to address the key development control issues associated with the determination of this application.'*
19. Paragraph 208 of the Framework does explain that the Council should take account of the *'available evidence'* and any necessary expertise. It continues that they should take this into account when considering the effect of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. In my view this is what they have done in this case, and as I have set out already, a proposal such as this requires an element of planning judgement on what is a subjective matter.
20. The Council have also explained that whilst the Conservation Officer did not visit the appeal site, the Conservation Officer was provided with photographs following a site visit by the planning officer. Based upon the evidence that was available I am satisfied that entry onto the site was not necessarily required to assess the effects of the appeal development on the CA. In any case it is the decision of the planning officer to decide what weight to give consultee responses. Therefore, unreasonable behaviour leading to unnecessary costs at appeal on this matter have not been demonstrated.
21. The applicant also suggests that the Council failed to give appropriate weight to the potential of a permitted development fallback scenario in reaching their decision. However, whilst I acknowledge that the Council have suggested it maybe possible some works could be permitted development, as I set out in my appeal decision, there is no degree of certainty in my mind that this is the case.
22. Further, the applicant refers to a lack of referencing Policy DM11 of the Adopted Mid Devon Local Plan 2013-2033 (the LP) in the decision notice to suggest contradicting conclusions by the Council on the effects of the appeal development. But this clearly was not the case, whilst the omission of this specific policy in the decision may have been an oversight, it makes no material difference to the evidential opposition to the proposal by the Council on character and appearance and heritage grounds. An appeal was inevitable in any case whether this policy was mentioned or not, and therefore no unnecessary or wasted expense has occurred in submitting an appeal.
23. Finally, the applicant suggests that delays in processing the application could lead to a requirement to update bat emergence surveys which I understand are valid until August 2025. If I had allowed the appeal, there are no certainties that this would have been the case anyway, but nonetheless, as explained already, the applicant's agent agreed to extensions of time and had ongoing discussions with the planning officer during the processing of the application. Unreasonable behaviour has not been demonstrated.

Conclusion

24. Therefore, having regard to all matters raised and for the reasons set out above, unreasonable behaviour leading to unnecessary costs at appeal has not been demonstrated. The application for an award of costs is refused.

J Evans

INSPECTOR