



Costs Decision

Site visit made on 20 May 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th June 2025

Costs application in relation to Appeal Ref: APP/Y2430/Q/24/3355391

Land adjacent to Glebe Road, Asfordby Hill, Leicestershire

- 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 Ironstone Development (East Midlands) Limited for a full award of costs against Melton Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a planning obligation to be discharged for Ref 17/00821/FUL for the erection of 16 dwellings.
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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.
3. The applicant contends that the Council failed to engage in any meaningful manner throughout the whole application determination stage. No substantive feedback was given in relation to the proposal's merits or harm, or likely determination, before and after its statutory determination deadline. The Council's erroneous approach and failure to determine the application ultimately left the applicant with no reasonable option but to appeal on grounds of non-determination, following a 5 month period after the target determination date with no progress evident.
4. The Council's main response to the application for costs is that they were experiencing significant delays in processing planning applications, as publicised on their website. While it is widely acknowledged that many local planning authorities are facing a range of such pressures and delays, this does not sufficiently mitigate the outcome that an appeal could have been avoided had the Council better engaged with the applicant. Indeed, the applicant did not immediately submit the appeal at their earliest opportunity, but close to their latest. The PPG identifies that unreasonable behaviour includes refusing to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
5. The applicant also contends that the Council should not have referred to the application as an 'enquiry' or given it such as a reference number. However, the Council has identified it is standard procedure to record all applications seeking to modify or discharge planning obligations as enquiries, specifically with the suffix

- ‘ENQ106’. In isolation I agree that this did not represent erroneous processing of the application. However, it did contribute to the lack of the applicant’s ability to view details on the Council’s online public access system, which does not appear to represent best practice.
6. The applicant also submits that they had made clear to the Council that the application’s determination did not require a legal instruction, as it can instead be dealt with by a decision notice issued by the planning officer. However, input from the Council’s legal team for an application centred on a legal agreement, and to gain legal advice on a process with which individual officers were unfamiliar, does not explicitly indicate an unreasonable approach. Notwithstanding this, the Council has confirmed that an administrative error led to an initial delay in instructing the legal team, alongside delays within the legal team itself. Both of these factors contributed to the lack of a timely determination.
 7. The Council’s detailed position on the proposal is still unknown, having missed the appeal deadline to submit its Statement of Case. The explanation of personnel changes was not considered to be circumstances sufficient to warrant an extension of time, in line with the ‘Procedural Guide: Planning appeals – England’. The Council thus failed to produce evidence to substantiate the merits or harm of the proposal. I accepted the appellant’s viability conclusions as accurate and appropriate, and with nothing before me to suggest that the proposal should not clearly be permitted, allowed the appeal. It would be speculation to consider whether I would have done so had I been in receipt of additional information from the Council.
 8. This demonstrates a failure to adhere to deadlines, and that the Council did not review their case promptly following the lodging of the appeal as part of sensible on-going case management, both PPG examples cited as unreasonable behaviour which may result in an award of costs. The applicant’s expense relating to the appeal could have otherwise been avoided.
 9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has therefore occurred, and a full award of costs is warranted.

Costs Order

10. 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 Melton Borough Council shall pay to Ironstone Development (East Midlands) Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Melton Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L N Hughes

INSPECTOR