



Costs Decision

Site visit made on 16 June 2025

by **Chris Couper BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 July 2025

Costs application in relation to Appeal Ref: APP/E3715/W/25/3362832

9 Vicarage Lane, Dunchurch, Warwickshire CV22 6QP

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr I Pratt and Mrs S Gill for a full award of costs against Rugby Borough Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission for demolition of conservatory and single storey bedroom and kitchen extensions; construction of a new gable feature and dormer to create additional useable space within the roof; construction of a new living / dining / kitchen room to replace existing conservatory, living room, dining room and kitchen extension; all retained existing elements to be thermally upgraded and all new elements to at least match current Building Regulations thermal requirements; all glazing to be aluminium framed thermally broken triple glazed units (both new and retained existing) to exceed current Building Regulations thermal requirements; relocation of tree T06 by specialist; relocation of garden gate access with additional hedge infill; and some internal reconfiguration.
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Decision

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

Reasons

2. The Planning Practice Guidance states that the aim of the costs regime is, amongst other things, to encourage all those involved to behave in a reasonable way and to follow good practice, and to encourage local planning authorities to properly exercise their development management responsibilities. The parties in planning appeals normally meet their own expenses, but costs may be awarded against a party who has behaved unreasonably and has thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It sets out that a local planning authority's handling of a planning application prior to the appeal may lead to an award of costs¹. It states that *'if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period'*.
4. It continues that *'if an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be*

¹ Planning Practice Guidance ID: 16-048-20140306

avoided altogether. Such a decision would take into account any unreasonable behaviour on the part of the appellant in causing or adding to the delay’.

5. The applicants state that the Council acted unreasonably by failing to determine the planning application within the statutory time limit, and that it did not provide adequate explanation or justification for the delay. Additionally, they point to other procedural matters relating to the Council's handling of the application, including failures to forward or publish representations, and delays in notifying and sending documents to consultees. This, they say, necessitated the submission of the appeal on the grounds of non-determination.
6. The application was not determined within the statutory time limit. From the evidence before me, in particular the correspondence between the principal parties at Appendix C of the Planning Appeal Statement, the Council did not seek a time extension, and it did not provide an explanation for the delay. There were also significant delays in seeking and publishing representations; and in forwarding documents to consultees. This made it very difficult for the applicants to keep track of their application, or to respond to issues or misrepresentations raised by interested parties, particularly so, given their unsuccessful attempts to discuss the application with officers.
7. However, it is also clear from the correspondence that officers did engage, at least to some degree, with the applicants. In particular, officers sent an email dated 10 January 2025, albeit just after the statutory time limit, but following a lengthy site meeting the previous day, which set out officers' specific design concerns, and the amendments that they considered would be necessary to secure planning permission.
8. Officers chased for a response to that email on 3 February 2025, but the applicants' reply dated 7 February 2025 did not respond to the design concerns that had been raised. In a further email dated 25 February 2025, officers confirmed that there was no ecological objection, and that, although no response had been received from Arboricultural and Highways Officers, they were confident that there would be no concerns on those issues. The email re-iterated that if the advised design amendments were submitted it was anticipated that the scheme would comply with planning policies and guidance and that the application would be promptly approved.
9. I can see no evidence before me that the applicants clearly stated whether or not they would be prepared to make those suggested design amendments, or whether they wished their planning application to be determined based on the drawings which were before the Council. This added to the delay. Had they communicated that they were not prepared to make the suggested amendments, it appears to me that the application would have been refused, admittedly after the statutory time limit. However, this would still have resulted in an appeal, albeit against the refusal to grant planning permission, rather than against non-determination.
10. I appreciate that the applicants were waiting to see all representations and consultation responses before responding to the 10 January email, so as to address matters 'in one go', but equally, it would appear to me to be reasonably clear that officers had no other substantive concerns, and that without those amendments planning permission would have been refused on design grounds.

11. The Council's 'Comments to the Applicant's Appeal Statement' very briefly sets out its design concerns, with reference to the 10 January email, and thus why planning permission would not have been granted had the application been determined. Its explanation could have been much more detailed and clearer, including by making appropriate reference to the development plan and other material considerations.
12. Nevertheless, whilst in my appeal decision I reached a different balanced conclusion to the views expressed by officers, the design concerns raised relate to matters of planning judgement. This is not therefore a case where, had the Council communicated differently, the time and expense of an appeal could have been avoided.
13. Finally, local planning authorities may, at their discretion, take into account comments that are made after the statutory deadline², and it was not therefore unreasonable that officers considered late representations in this case.
14. For these reasons, having regard to the Planning Practice Guidance, whilst there were procedural flaws in the Council's handling of the planning application, it has not been clearly demonstrated that unreasonable behaviour has resulted in the applicants incurring unnecessary or wasted expense in the appeal process. The application for an award of costs is therefore refused.

Chris Couper

INSPECTOR

² Ministry of Housing, Communities & Local Government (2018 to 2021) and Department for Levelling Up, Housing and Communities – Guidance: Consultation and pre-decision matters (2022)