



Costs Decision

Site visit made on 27 May 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 July 2025

Costs application in relation to Appeal Ref: APP/G5180/W/25/3359916 Garages adjacent to No 2 Shrewsbury Road, Beckenham, Bromley BR3 4DB

- 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 Oliver Denby of Binouze Estates Limited for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for Re-development of garages on site between and part behind No 2 and 4 Shrewsbury Road, to provide 1 pair of semi-detached dwellings, each 3B5P, and 1No single storey(2B4P) dwelling at the rear, and private amenity spaces, and alterations to existing dropped kerb.
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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. The Council failed to give failed to give notice of its decision within the prescribed period. The applicant submits that the Council has acted unreasonably by delaying the grant of planning permission.
4. PPG states, '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.'
5. The application was validated on 8 November 2024, with a determination target date of 3 January 2025. The application was called in by a local ward councillor on 29 November 2024 for determination by the Planning Committee. I am advised that due to the Planning Committee's timetable, the application was anticipated to be heard on 8 February 2025. According to the Council, the applicant was made aware that the application had been called in to the Planning Committee. The applicant indicates that they were not advised of this until 15 January 2025. Even if there had been a communication delay on the Council's part, an explanation for the anticipated failure to determine the application within the time limits was given on

15 January 2025. I therefore do not find that the Council acted unreasonably, leading to any wasted expense.

6. The applicant submitted the appeal on 31 January 2025. Once a planning appeal has been validly submitted, the local planning authority loses the power to determine the planning application. Therefore, the applicant's allegation that the Council continued delay the issue of a decision is not relevant.
7. The applicant states that the Council issued a refusal of planning on 17 April 2025. However, I have no decision notice, and as stated above, the Council would not have been able to determine the application.
8. The Council's appeal statement explains why permission would not have been granted had the application been determined within the relevant period. Their reasons are based on sound planning judgment and supported by relevant development plan policies and national guidance. Contrary to the applicant's assertion, the Council took account of an appeal decision¹ relating to a scheme by the same applicant at the same appeal site, as evidenced in its appeal statement. The Council acknowledged that paragraph 11d) of the Framework applied and undertook a planning balance of the identified harms and benefits of the scheme. Ultimately, the Council are entitled to take a different view to the applicant and disagreement on the application of paragraph 11d) Framework does not, in itself, constitute unreasonable behaviour.
9. The applicant has claimed for costs incurred due to loss of income relating to the prolonged planning decision and loss of further income on borrowing. PPG advises that 'Awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.' As such, these are not recoverable through a costs award.
10. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not justified.

U P Han

INSPECTOR

¹ Ref. APP/G5180/W/24/3343772.