



Costs Decision

Site visit made on 18 June 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2025

Costs application in relation to Appeal Ref: APP/J3720/W/24/3358017 Arrow Bridge House, Evesham Street, Arrow, Warwickshire B49 5PH

- 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 Alauna Holdings Ltd for a full award of costs against Stratford-on-Avon District Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for proposed is 7 custom build dwellings (4 new dwellings and 3 replacement dwellings) with all matters reserved except access.
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Decision

1. The application for a full 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 basis of the costs claim is that the Council caused unnecessary delays and was biased in its assessment of the application proposal. This includes that, the Council failed to upload documents onto the E-Planning Website and send supporting reports to consultees. The planning officer's report included inaccuracies and contradictions. Also, because the Council refused to accept amendments and re-consult consultees, it failed to work pro-actively with the applicant in the decision-making process, contrary to the National Planning Policy Framework (the Framework).
4. From the evidence provided, the Council did not determine the planning application within the normal statutory timescales and there were delays caused because the Council did not initially upload all supporting application documents onto its website, to ensure all consultees could view such. Although, the Council did remedy the situation and allowed additional time for consultees to respond, including the Highways Authority, which consequently resolved their initial objection to the proposal. Also, that a Tree Preservation Order was served during the application process delayed the determination of the application, as this required changes to the Council officer's assessment of the proposal in such regard.
5. Even if the initial objection from the Highway Authority may have influenced the concerns raised on highway grounds raised by other consultees, the Council did not refuse the application due to highway safety concerns. Therefore, while there were delays in the application process due to various matters, this was not unreasonable in the circumstances and no party was unduly prejudiced by such.

Furthermore, the planning process allows opportunity for an appeal against non-determination, when the statutory timescales have been exceeded, which the appellant could have exercised.

6. While the planning officer's report makes several references to the felling of Oak trees and mature trees within the appeal site, evidence has been provided, including photographs of tree stumps, to show that some trees had been felled within the appeal site at some point. Although, the Council subsequently advised on the basis of further photographic evidence, that it could not be substantiated the trees removed were Oak trees, adding a planning case file note post issue of its decision to clarify matters. Notwithstanding such, there is evidence of some tree removal within the site, and even if they were not Oak trees, there is biodiversity impact in terms of tree removal. Furthermore, this would not have altered the Council's decision to refuse the application in regard to trees and biodiversity and so, any inaccuracies related to tree species would not have negated the appeal in relation to such grounds.
7. The Council has adequately clarified the points which were made in their officer's delegated report with regard to the proximity of the appeal site to the Built Up Area Boundary (BUAB) of Alcester. Furthermore, I have found in my appeal decision that the site is not within the BUAB, nor is the part of the appeal site where the dwellings are proposed adjacent to it or the appeal site within the physical confines of Alcester. Whether or not the location of the site is within the BUAB can be clearly defined from the map within the Alcester Neighbourhood Development Plan, what comprises adjacent to such, is a judgement. Also, based on the evidence provided, even though there were some contradictions in phraseology to describe the site and its location within the Council's delegated report, this did not alter the overall conclusions reached by the Council in terms of the effect on its housing strategy.
8. The Council set out within its pre-application advice that it does not bind the Council's decision-making or constitute a formal decision by the Council as local planning authority. Furthermore, while the Council gave advice about the potential for self-build housing (SBH) within the site, it referred to the fact that such 'maybe appropriate,' subject to other concerns being addressed. Therefore, as the pre-application advice was given on a without prejudice basis, it does not amount to unreasonable behaviour.
9. The Council sets out that it has a clear and publicised guidance in regard to amendments during the course of the consideration of a planning application. The Framework encourages pre-application engagement and front-loading and the PPG sets out that¹, it is at the discretion of the local planning authority whether to accept changes to an application or to determine if the changes need to be reconsulted upon. Also, evidence shows that the Council's planning officer set out on several occasions, in emails to the appellant's agent, that no amendments would be accepted during the course of the application process.
10. Therefore, the Council did not act unreasonably in declining to accept the amendments to the scheme in this instance. Furthermore, in my view, the duty imposed on local planning authorities to work proactively with applicants does not oblige them to engage in discussions or accept amended plans during a live application process. Rather, the applicant/appellant should have sought further pre-

¹ Paragraph: 061 Reference ID: 14-061-20140306 of the Planning Practice Guidance.

application engagement when further details of the proposal were known and collaborative engagement with consultees and interested parties could have taken place.

11. Also, even if, as asserted by the appellant, the Council's planning case officer did not speak with the appellant or their representative during the application process, there was some email engagement between the main parties. Furthermore, I have no evidence to suggest that verbal communication would have altered the Council decision on the appeal proposal.
12. The officer's delegated report demonstrates that the Council had regard to unmet need in respect of self-build and custom housing and the proximity of the appeal site to Alcester in reaching its decision. Although, as per my appeal findings, there is no mechanism in place to secure that the proposed dwellings would be self-build or custom housing in any case, in order to meet any unmet need for such type of housing in this instance.

Conclusion

13. In view of the above, and that I am satisfied that the Council's decision would not have altered given the matters arising during the application process and its consideration of the proposal, so as to negate the reasons for refusal and subsequent appeal, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated.
14. Therefore, an award of costs is not justified against the Council.

C Billings

INSPECTOR