



Costs Decision

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 July 2025

Costs application in relation to Appeal Ref:

APP/Z0116/W/25/3366881

Badminton School, Westbury Road, Bristol, BS9 3BA

- 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 Badminton School for a full award of costs against Bristol City 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 '*Replacement of the existing glazed roof on the school's Arts Building with a new insulated zinc-clad roof including new PV array.*'
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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 national *Planning Practice Guidance* (the Guidance) 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.

The Applicant's case

3. In their application, the Applicant considers that the LPA have acted unreasonably in this matter without any form of communication; either during the consultation period or since the suggested 'decision date' of the 27 December 2024. This is despite regular emails asking for an update.
4. The school has now had to pay their agents, such as LED Architects, for the time lost in pursuing Bristol City Council over the last six months and to administer and lodge the appeal.

The Council's response

5. The Applicant submitted their application in October 2024. In November 2024 they were informed by the Council, that the application was valid and that the Council aims to '*allocate your application to a Planning Officer within 6-8 weeks of validation.*'
6. The letter goes on to inform the Applicant that the Council has a backlog, and that '*Until a Planning Officer is assigned to your case, your planning application is still moving forward. We launch consultations with neighbours and receive comments while waiting for an officer to be assigned.*'

7. Lastly, the letter indicates that the period for determination of an application is eight weeks. It indicated that the Council would try to reach a decision by 27 December 2024, and if they failed to do so the Applicant could appeal to the Secretary of State.
8. The Council's response to the costs application goes on to detail that they acknowledge that *'communications from the Applicant received only automatic acknowledgments and no detailed responses. This was an unfortunate consequence of the LPA's resource limitations during this period. Nevertheless, the LPA has acted in good faith and made every effort to deal with applications as promptly as possible given the circumstances.'* They also indicate that the resourcing pressures at the Council, resulting in its designation under s62A of the TCPA, were 'exceptional circumstances'.

Inspector's considerations

9. I note the context and circumstances indicated by the Council, and appreciate that in such situations there are times when service standards fall between those minimum standards legitimately expected by customers. The costs regime is not intended to be punitive; rather it is based on reasonableness in the appeal process, and where this does not happen and results in wasted expense, then the application party having the ability to recover its fair costs because of this behaviour.
10. In this case, it is clear that the Council set out that the case was unlikely to be allocated to an officer until around weeks 6-8 of the process. (Bearing in mind that applications such as this should typically be determined within 8 weeks). It also informed the Applicant of the anticipated decision date of 27 December 2024. I also note the widely publicised issues at the Council in relation to planning performance, and the efforts being made to rectify this.
11. The problem here, is that the Applicant appears to have received no indication from the Council or correspondence beyond anodyne automated emails in relation to their application. I appreciate that I have not been presented with the full details of what emails were sent to the Council, or their frequency. Nevertheless, it strikes me as odd that with a target date of late December 2024, and an appeal submission date of June 2025, there had not been a number of emails submitted in that six month period by the Applicant to the Council seeking to find out what was happening with their application.
12. This period would have provided the Council with a number of opportunities to explain to the Applicant not only the reason for the delays, but provide an indication of whether permission might be forthcoming or not. The inability of the Council to provide any indication of its position – whether in terms of an update on progress or potential decision – for a period of around six months, was unreasonable.
13. Furthermore, this poor communication during the delay resulted in unnecessary and wasted expense, as the Applicant had little option but to appeal the lack of any decision being made by the Council. This may have been avoided altogether if the Council had, at the very least, indicated to the Applicant their view on the acceptability of the proposal between their target date of late December and the appeal being submitted in June 2025.

14. Accordingly, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.
15. I note that a specific amount has been cited by the Applicant relating to their costs; however my remit is to consider the two stages above – unreasonable behaviour and if that has caused wasted expense – and not the specific amount which is a matter for the parties as per the Costs Order below.

Costs Order

16. 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 Bristol City Council shall pay to Badminton School, 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.

The applicant is now invited to submit to Bristol City 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.

C Parker

INSPECTOR