
Costs Decision

Site visit made on 24 July 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 AUGUST 2025

Costs application in relation to Appeal Ref: APP/K3605/W/25/3360346 Warehouse, Thames Street, Weybridge, Surrey, KT13 8JG

- 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 Nick Jones for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of the Council to grant approval of details pursuant to condition No 1 of a planning permission APP/K3605/C/23/3328934 and APP/K3605/C/23/3328935, granted on 18 March 2024.
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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 applicant contends that the Council has acted unreasonably on both substantive and procedural grounds and therefore seeks a full award of costs. The central issue raised relates to the Council's interpretation of the timing requirements set out in condition 1. This condition requires that an application be submitted "...for approval in writing within 3 months of this appeal decision." The application subject to this appeal was submitted outside of that three-month period.
4. However, as outlined in my appeal decision, an earlier application—although ultimately refused—was submitted within the timeframe required by the relevant condition. It is my view, shared by the applicant, that this submission was sufficient to satisfy the timing requirement. The Council has provided a reasoned justification for its position and adopted a different interpretation of the condition. I consider this to be a matter open to legitimate debate, and ultimately one that falls within the jurisdiction of the courts to determine. In the absence of definitive legal clarity, it was within the Council's remit to form its own view. Although I have reached a different conclusion, I do not consider the Council's position to constitute unreasonable behaviour.
5. In terms of other matters, the applicant disputes the necessity of providing an acoustic enclosure in addition to the proposed night-time setback facility. However, Condition 1 explicitly requires the inclusion of an acoustic enclosure. Even if the Council had deemed the attenuation provided by the setback facility sufficient, those details alone would not have satisfied the requirements of the condition.

Therefore, the Council's insistence on the enclosure was justified and not unreasonable.

6. The applicant also criticises the Council for a lack of communication and insufficient explanation regarding the refusal. However, the decision notice clearly identifies the timing of the submission as the sole reason for refusal. Furthermore, the correspondence available to me indicates that the Council engaged fairly constructively throughout the application process—providing feedback, agreeing to time extensions, and accepting additional information. This reflects a positive and proactive approach. While I acknowledge the applicant's concerns about the level of engagement during a previous application, even if I were to accept that the Council's conduct in that instance was unreasonable, I can only consider costs incurred directly in connection with this appeal.
7. Similarly, the applicant has raised concerns about the Council's conduct in relation to other appeals on the site, suggesting a pattern of unreasonable behaviour. However, those appeals and the associated evidence are not before me. The two recent appeals cited relate to Section 78 appeals concerning separate developments—a basement and a front porch—and are distinct from the current matter, which concerns the siting of air source heat pumps. Accordingly, I have assessed this appeal and the associated costs application on their individual merits.
8. The applicant also questions the Council's decision to validate the application despite its late submission. However, the timing of the application affects its determination, not its validity. While I note that the air source heat pumps have been operational since 2022, the absence of complaints, though potentially informative, does not conclusively demonstrate a lack of harm.
9. In light of the above, and notwithstanding the outcome of my appeal decision, I find that the Council did not act unreasonably in refusing the submitted details. As such, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the Planning Practice Guidance (PPG), has not been demonstrated.

R Lawrence

INSPECTOR