



Costs Decisions

Site visit made on 13 August 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2025

Costs Application A:

Costs application in relation to Appeal Ref: APP/E2340/W/25/3365324

Land to the West of Sheridan Road, Colne, Lancashire BB8 7HW

- 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).
 - An application is made by Mr H Roberts, Mr Ian Baxter and Ms Joan Whittaker for a full award of costs against Pendle Borough 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 outline planning permission for the erection of 18 no. dwellings [Use Class C3] with all matters reserved except access.
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Costs Application B:

Costs application in relation to Appeal Ref: APP/E2340/W/25/3365324

Land to the West of Sheridan Road, Colne, Lancashire BB8 7HW

- 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).
 - An application is made by Pendle Borough Council for a full award of costs against Mr Roberts, Mr Ian Baxter and Ms Joan Whittaker, the appellant.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for the erection of 18 no. dwellings [Use Class C3] with all matters reserved except access.
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Decision

1. Costs application A is refused.
2. Costs application B is refused.

Reasons

3. 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.
4. The PPG provides examples of unreasonable behaviour by the two main parties in an appeal. The appellant alleges that the Council deferred the application to seek excessive information on an alternative access route, did not follow the appropriate procedure and that the application was pre-determined prior to its determination. In response, the Council allege that the appellant has demonstrated unreasonable behaviour by filing for an appeal for non-determination of the application whilst a clear and reasonable timescale was in place for the determination of the application.

Application A

5. It is alleged that the Council deferred the application to seek information and redesign the proposal through an alternative access point from Alma Road.

6. To start, it is contended that Lancashire County Council Highways (LCCH) had considered the Alma Road access point to be acceptable in principle. I note that the assistant engineer from LCCH requested information about an alternative access from Alma Road in an email to the case officer of the Council. It follows that whilst they did not object to the access proposed at Sheridan Road in their official consultation response, there is no convincing evidence before me to suggest that Alma Road itself was explicitly rejected by LCCH.
7. In following the recommendation by LCCH, it is important to note that planning committees play an important role in the decision-making process and are entitled to reach a different conclusion to its officers. Whilst planning law requires that applications be determined in accordance with the development plan, regard can also be had to material considerations as they are presented during that process. Throughout the application process, interested parties consistently questioned why an existing access point at Alma Road was not proposed.
8. It is important that decision makers in any capacity assess planning applications as submitted. However, material considerations, namely that an existing access was in situ and had been raised by many interested parties were before the committee. Councillors have a responsibility to come to a robust planning decision during planning committee meetings. Nevertheless, they also have a responsibility to inform their residents as to why a particular decision has been made, following the voicing of their concerns.
9. Following a review of the full transcript from the planning committee meeting, it is evident that the decision was deferred to enable further investigation into the appropriateness of the proposed access point. Additionally, the committee sought further dialogue with the appellant regarding the feasibility of utilising the existing access via Alma Road. The appellant asserts that, in an email dated 29 April 2025, the Council explicitly requested feasibility drawings, gradient calculations, tree impact assessments, and cost breakdowns pertaining to the Alma Road access. This email has been submitted as part of the evidence.
10. Upon examination, the email indicates that Councillors expressed a desire to understand whether access from Alma Road was technically and economically viable. It does not contain a direct or explicit request for the specific documentation cited by the appellant. Therefore, while the Council's interest in the feasibility of the Alma Road access is clear, the claim that detailed technical documents were formally requested is not substantiated by the content of the correspondence before me.
11. The appellant has provided an example of an appeal costs decision¹ for my consideration. They note that a full award of costs was allowed where the Council deferred its determination of an application where it requested unnecessary highway surveys and information, notwithstanding officer advice. I was the Planning Inspector appointed to this referenced appeal decision and therefore, I am able to confidently comment on the differences between these two cases.
12. In the referenced case, it was requested that the appellant provide additional survey information. Explicitly, the information requested included a speed survey, a breakdown of vehicle types which utilise the highway and a curvature and topography survey. As has been uncovered in this appeal, this is not the case here. The content

¹ APP/J4423/W/24/3356418

of the correspondence before me does not specifically request documentation to understand the feasibility of the access point at Alma Road.

13. Secondly, in the appeal case cited by the appellant, the Council articulated its requirement for additional survey work without providing any clear indication of when a determination would be made. This procedural ambiguity contrasts with the circumstances of this appeal. Based on the evidence before me, it is apparent that the application was deferred with a site visit scheduled and the matter subsequently placed on the committee agenda within a matter of weeks. Given that planning committees typically do not convene on a weekly basis, this timeline suggests that the Council was actively working towards a prompt resolution. Accordingly, it would have been evident to the appellant that a decision was intended to be made at the next available committee meeting. Therefore, these cases are not immediately comparative to each other.
14. In bringing all of the above together, most crucially, it is not evidenced that there was an explicit request for the scheme to be redesigned to change the access point to Alma Road, or to provide specific documentation with regard to this access point. I am therefore not convinced that unreasonable behaviour has been demonstrated by the Council in this regard.
15. I now turn to the appellant's allegation of procedural impropriety and predetermination in relation to the application. The appellant refers to an email dated 4 February 2025 from the case officer, which they claim indicated that members were likely to refuse the scheme should access continue to be proposed via Sheridan Road. This email has been submitted for my consideration. Upon review, I find that this is incorrect. It does not contain the statement alleged by the appellant. Rather, it acknowledges that access via Sheridan Road presents several challenges and, as a result, the case officer was minded to recommend refusal of the application.
16. It is a fundamental principle of the planning system that local planning authorities should engage constructively with applicants to seek solutions where possible. In this instance, the correspondence reflects an effort by the Council to identify a more suitable access arrangement, consistent with its duty to work proactively with applicants.
17. A subsequent email dated 20 February 2025 has also been submitted for review. In this correspondence, the same case officer advises that despite a recommendation from LCCH, the access via Alma Road should be explored. They note that the planning committee may be minded to refuse the application if access continued to be proposed from Sheridan Road. As previously acknowledged, planning committees are entitled to reach a different conclusion from their officers, particularly where the potential impact of a development is considered to result in harm. This advice appears to be a continuation of the concerns outlined in the earlier email dated 4 February 2025. In my view, this is another helpful action by the case officer to work proactively with the applicant and gain approval on the site for the proposed development.
18. In continuing the examination of alleged predetermination, the appellant has raised concerns regarding the conduct of a Councillor, citing comments made on social media. The Councillor in question is identified in the transcript of the planning committee meeting and is therefore confirmed as a member of the committee.
19. Participation in planning committees carries a particular responsibility to approach matters with impartiality and to ensure that decisions are made objectively, based

solely on the evidence presented and the material circumstances of that case. Regardless of their other duties to the community outside of planning, for those engaged in public decision making, it is a fundamental expectation that elected Councillors conduct themselves in accordance with the highest standards of integrity, fairness, and accountability, including in their use of online profiles.

20. The comments made by the Councillor have been reviewed in full. They consist of general guidance to residents on how to raise concerns regarding the access proposed, a clarification that planning applications must be determined on planning grounds and a reference to the need for a neighbourhood plan. These remarks do not constitute evidence of a predetermined view on the application.
21. It is imperative that individuals in public office, particularly those serving on decision-making committees, uphold the highest standards of conduct. However, in this instance, the Councillor's comments do not indicate bias, nor do they undermine the integrity of the decision-making process. Having considered all submissions on this matter, I find no basis to conclude that the Councillor acted improperly or that the Council behaved unreasonably.
22. To conclude, I am not persuaded that the local authority acted unreasonably in the matters raised above. As such, unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, an award of costs on this issue is not justified.
23. For these reasons and taking into account all other matters raised, the application for costs made by the appellant is refused.

Application B

24. The Council contends that the appellant has acted unreasonably by submitting a non-determination appeal despite a clear and reasonable timeframe having been established for the determination of the application. In support of this position, the Council has provided a detailed timeline of events.
25. The PPG advises that applicants should engage constructively with the local planning authority to establish when a decision is likely to be made. In this case, following the initial deferral of the application to allow for a site visit, prompted by concerns regarding the proposed access via Sheridan Road, a specific date was subsequently set for its determination.
26. It is noted that the appeal for non-determination was lodged just one day prior to the scheduled planning committee meeting at which the application was due to be considered. This timing is significant. It suggests that the Council was actively progressing the application and had made arrangements for its determination.
27. The right to submit an appeal on the grounds of non-determination exists primarily to safeguard applicants from undue delay from situations where a local planning authority fails to provide a reasonable timeframe for determining an application. This is not the case here. The evidence clearly demonstrates that the Council had established a reasonable and transparent timeline for determination, including scheduling the application for committee consideration.
28. I appreciate that in following this route, the Council will have had to allocate resources to respond to this appeal. However, while the timing of the filing for non-determination of the application is unfortunate, the appellant did have the right to file for non-

determination. Therefore, in principle, this is not unreasonable. It would not be a demonstration of unreasonable behaviour for the purposes of this decision.

29. I therefore find that unreasonable behaviour by the appellant, resulting in unnecessary or wasted expense has not been demonstrated.

J Smith

INSPECTOR