



Costs Decision

Site visit made on 1 July 2025

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Costs application in relation to Appeal Ref: APP/A1910/X/24/3344423 Greymantle, Hempstead Road, Bovington, Hemel Hempstead HP3 0HF

- 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 Kedgling Developments Ltd for a full award of costs against Dacorum 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 two outbuildings.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (PPG) chapter on appeals advises that costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030). At paragraph 031, the PPG advises that 'unreasonable' has its ordinary meaning, as established by the Courts¹ and that unreasonable behaviour can be either procedural-relating to the process, or substantive-relating to the issues arising from the merits of the appeal.
3. The applicant sought a full award of their costs incurred in making the appeal, on substantive grounds. The application was made in writing in accordance with the PPG at paragraph 035. In summary, the applicant's case is that the delay in determining their application was unjustified and the Council did not explain why the draft recommendation to grant an LDC was subsequently reversed. Also, the officer delegated report submitted in response to the appeal contained inaccuracies, showed a lack of awareness of information submitted with the application which clearly demonstrated that the proposal was lawful and took irrelevant factors including previous applications into account. All of this, the applicant claimed, resulted in them incurring expense which could otherwise have been avoided.
4. In paragraph 048, the PPG advises that where it is clear that a Council 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 Council should explain their reasons for not reaching a decision within the relevant time limit and why the decision would not have been favourable had the application been determined within the relevant period. If an appeal in such cases is allowed, the Council may be at risk of an award of costs, if it is concluded that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.

¹ *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774.

5. At paragraph 049, the PPG advises that a Council is at risk of an award of costs where they behave unreasonably with respect to the substance of the matter under appeal, by unreasonably refusing or failing to determine applications or by unreasonably defending appeals. The non-exhaustive list of examples where such circumstances might arise include preventing or delaying development which should clearly be permitted, failing to produce evidence to substantiate reasons for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and not reviewing the case promptly following the lodging of an appeal, as part of sensible on-going case management.
6. The reasoning behind the Council's conclusion that it would have refused the application had it been in a position to do so was set out in the finalised officer delegated report. Whilst a different view was expressed in an earlier draft version of that document, the Council is not bound by the advice of its officers; if that were to be the case no such advice would be given. The final report clearly explains, in a detailed and objective manner, why the Council considered that an LDC should not be granted. It shows that the Council made a reasoned judgment based on its interpretation of the facts and circumstances of the proposal assessed against the relevant law.
7. There is little to support the claim that the final report is inherently inaccurate or that it fails to take into account supporting information submitted with the application. The final report is clearly written on the basis of the use of the property being as a single dwelling. Since the recent, quite extensive, planning history of the property and the use of the dwelling could well have a bearing on whether the proposal is lawful, in particular whether it is required for a purpose incidental to the enjoyment of the dwellinghouse as such, those factors are not irrelevant. Ultimately, on the basis of the available evidence I reached conclusions in relation to the proposal that were not dissimilar to those of the Council. For this and the above reasons, in my view the Council has substantiated its case at appeal.
8. I can understand the applicant's frustration over the lengthy delay in determining the application and the lack of an explanation from the Council in that regard. Applications should ideally be determined within statutory timescales, although this is not always practicable. The date of publication of the final report is of limited relevance in this matter, as once the appeal was made the Council were no longer able to determine the application. Moreover, given the conclusions of that report it is unlikely that the appeal could have been avoided had the application been determined in time.
9. Therefore, the circumstances are not similar to in paragraph 048 of the PPG concerning the handling of the application prior to the appeal. Nor am I persuaded that the Council's actions in the appeal are similar to any of the examples of unreasonable behaviour relating to the substance of the case at paragraph 049 referred to above, or to any other examples referred to in that paragraph, or that they have otherwise acted unreasonably. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

10. For the reasons set out above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stephen Hawkins

INSPECTOR