



Costs Decision

Site visit made on 13 November 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th November 2025

Costs application in relation to Appeal Ref: APP/Z2260/W/25/3370936

2-3 The Broadway, Addington Street, Ramsgate, Kent CT11 9JN

- 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 Stuart Langley for a full award of costs against Thanet District 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 planning permission for the “variation of condition 4 of planning permission F/TH/13/0691 for the change of use from retail (A1) to retail and cafe (A1 and A3), installation of new shopfront, insertion of door at rear, and use of rear yard as a seating area to allow extended opening hours” without complying with a condition attached to the planning permission.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and that behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is seeking to recover the full costs incurred in the appeal process. The applicant considers that the Council behaved unreasonably as it delayed determination of the planning application, failed to follow the professional advice of its own officers and failed to respond to correspondence from the applicant.
4. The planning application was received by the Council on 18 November 2024 and validated on 20 November 2024 with a target date of 15 January 2025. Following the Council's request, the applicant agreed to an extension of time to allow it to be considered at the February planning committee meeting.
5. The planning application was only to vary condition 4 to increase the opening hours. However, during consideration of the planning application, it was identified that external cooking of food to the rear was taking place without planning permission and existing conditions attached to the planning permission ref F/TH/16/0213 were not being complied with. This had caused disturbance to neighbours and complaints to the Council's Environmental Health team.
6. The Council's planning committee considered the application on 19 February 2025 which was recommended for approval by the Council's planning officers (officers). The Council's members (members) deferred consideration of the planning application, seeking it to be brought back with reasons for refusal. In my view,

- members were entitled not to accept the professional advice of officers so long as a case could be made to the contrary. In this case, the members were concerned that the external kitchen had not been included within the application and without knowing whether this would be acceptable, they considered that it was not possible to determine the impact of increased opening hours on neighbouring residents.
7. The officers could have brought back the planning application for consideration at the March planning committee with the reasons for refusal requested by members. Instead, they sought to attempt to resolve the issues, by seeking mitigation that could reduce the impact of the external kitchen on neighbouring residents whilst enabling compliance with the planning conditions. This involved a site visit with the applicant on 25 March 2025, the submission of noise/odour management schemes by the applicant, and responses sent by officers to the applicant on 4 April 2025, 22 May 2025 and 8 July 2025.
 8. Officers ultimately concluded that the external kitchen is not acceptable given the noise and odour impacts on neighbouring occupiers, and the applicant was advised of this on 8 July 2025. Due to officer leave, the proposal could not be considered at the August planning committee meeting but was planned for consideration at the September meeting. However, the appeal was submitted on 12 August 2025 and the officer's report in relation to the appeal was considered by the planning committee on 17 September 2025.
 9. The PPG states that under section 73 of the Act¹ only the disputed condition that is the subject of the application must be considered. The planning application sought to vary condition 4 of the planning permission ref F/TH/16/0213 relating to the hours of the approved use. As the site includes the external area in which the unauthorised kitchen is located, it was not unreasonable for the Council to consider how this area was being used.
 10. The PPG also indicates that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. Further, if an appeal in such cases is allowed, consideration needs to be given to whether there were substantive reasons to justify delaying the determination and whether communication with the applicant would have enabled the appeal to be avoided.
 11. From the above, officers clearly sought to engage with the applicant following the February planning committee meeting to try to address the issues raised by members and some interested parties on the planning application. In these circumstances, I am satisfied that there was good reason for the Council to delay determination of the proposal. Had it not done so, its members may have refused the scheme in March 2025 which could have resulted in an appeal in any case.
 12. Consequently, although I have allowed the appeal and granted planning permission, I do not consider that the Council's behaviour has been unreasonable. It thus follows that the applicant has not incurred any unnecessary expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Wright INSPECTOR

¹ Town and Country Planning Act 1990