



Costs Decision

Site visit made on 10 June 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Costs application in relation to Appeal Ref: APP/E3335/X/25/3361611

Cornish Farm, Killams Lane, Shoreditch, Taunton Somerset TA3 7BS

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Sovereign Park Homes Estates Ltd for a full award of costs against Somerset 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 a certificate of lawful use or development for the non-compliance with condition 4 of planning permission 30/99/0028.
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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 claims that the Council acted unreasonably in failing to determine the application within the prescribed period and failed to communicate during the application process. Furthermore, the applicant considers that the Council failed to substantiate its case at appeal including failing to follow established case law.
4. At paragraph 048 the PPG¹ advises 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. In any appeal against non-determination, the Council should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period. In the appeal the Council failed to explain their reasons for not reaching a decision within the prescribed period, and therefore the Council's behaviour is unreasonable in that context.
5. However, paragraph 048 goes on to state *"If an appeal in such cases is allowed, the local planning authority may be at a risk of an award of costs, if the Inspector or Secretary of State concludes 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"*.
6. It so happens that the appeal has not been allowed and so the circumstances given in the above example in the PPG are not met. In addition, it is clear from the

¹ PPG Paragraph: 048 Reference ID: 16-048-20140306

Council's appeal statement that the application would have been refused had it been determined. Therefore, notwithstanding the unreasonableness of the Council's behaviour in failing to determine the application in a timely manner, the appeal would still have been brought in any event and the same arguments formulated. Accordingly, the Council's actions have not resulted in the applicant incurring unnecessary or wasted expense.

7. The applicant's claim that the Council failed to substantiate its case is made primarily on its failure to engage in the case of *Ocado Retail Ltd*², which was referred to by the applicant. Whilst the Council did not expressly refer to *Ocado Retail Ltd* in their submissions, the Council did engage with other relevant case law including *North Devon*³ and *Basingstoke & Deane*⁴. As can be seen from my appeal decision, I did not consider the issues arising from the *Ocado Retail Ltd* case to be of significant relevance here. In any event, the Council substantiated its case at appeal including taking relevant case law into account. The Council therefore did not act unreasonably in that regard.

Conclusion

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred, and a full award of costs is not warranted.

David Jones

INSPECTOR

² *Ocado Retail Ltd v London Borough of Islington* [2021] EWHC 1509 (Admin)

³ *North Devon District Council v FSS & Stokes* [2004] JPL 1396

⁴ *Basingstoke and Deane BC v SSCLG & Stockdale* [2009] EWHC 1012 (Admin)