
Costs Decisions

Hearing held on 5 November 2025

Site visit made on 5 November 2025

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2025

Costs application in relation to Appeal Ref: APP/C1760/W/25/3363604

The Weyhill Fair, Weyhill Road, Weyhill, Andover, Hampshire SP11 0PP

- 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).
 - Application A is made by Mr J Wilkinson on behalf of Rivendale Developments Ltd for a full award of costs against Test Valley Borough Council.
 - Application B is made by Test Valley Borough Council for a full, or partial award of costs against Mr J Wilkinson on behalf of Rivendale Developments Ltd.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for demolition of existing Public House and flat, and construction of 9 dwellings.
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Decision

1. Application A for an award of costs is refused.
2. Application B for an award of costs is refused.

Application A:

The submissions for Mr J Wilkinson on behalf of Rivendale Developments Ltd

3. The costs application was submitted in writing before the date of the hearing and seeks to make the case that the Council acted unreasonably procedurally as it delayed processing the application and did not communicate positively or proactively. The costs application is on the basis that the appellant was obliged to appeal against non-determination due to a lack of decision within the statutory time period and despite pre-application discussions and an offer to secure the Council an independent viability assessor. The following additional points were made orally at the hearing: that the appellant is tied by the land contract timescales, that the Council did not produce a viability assessment until the appeal stage and that the Council did not carry out a full heritage assessment until the appeal stage.

The response by Test Valley Borough Council

4. The response was made in writing before the date of the hearing. The Council state that the pre-application submission solely related to establishing the principle, in heritage terms of the demolition of the public house, with regard to which the Council stated it would not support the submission. Furthermore, the Council state that during the course of the application it became clear that other matters related to trees, noise and highway impacts were unresolved to which the applicant submitted additional or amended information resulting in the need for further consultation. In light of this, given the absence for a request for an extension of

time with the application needing to go to Committee for determination if there were a favourable recommendation and given changes via the update to the National Planning Policy Framework (the Framework) during the course of the application, a decision was not made within 8 weeks. Moreover, the Council state that a meeting subsequently took place with the applicant to resolve the outstanding matters immediately prior to the appeal being submitted and that any delays caused during the appeal were in response to the submission of further evidence from the applicant. Furthermore, Paragraph 047 of the Planning Practice Guidance (PPG) in relation to Costs states that unreasonable behaviour in relation to procedural matters relates to the appeal stage and not the application process. No additional points were made orally.

The response to the Council's response

5. The appellant states, amongst other things, that the Council's Heritage Officer was allowed 9 weeks to respond to internal consultation with the highway authority not re-consulted. That there was no response from the Council in relation to affordable housing or viability long after the application was submitted with a number of issues outstanding before the April meeting with no decision made by the planning officer. Furthermore, the Council should have been aware of the upcoming changes to the Framework, and its approach overall was very unhelpful and ineffective with the Council applying the 'tilted balance' incorrectly.

Application B:

The submissions for Test Valley Borough Council

6. The costs application was submitted in writing before the date of the hearing. In summary, this states that there were clearly a number of unresolved matters at the time that the appeal was submitted, reflected in the need for the appellant to submit amended plans and further evidence during the course of the appeal demonstrating that the applicant was not confident with its existing submission. Moreover, the appellant made no attempt to resolve these with the Council before submitting the appeal, resulting in a change of procedure to a hearing with the Council having the hearing date imposed on it despite being aware of the lack of available staff. The Council seek a full award of costs, or alternatively a partial award of costs on substantive grounds with respect to responding to the new evidence submitted as part of the appeal. No additional points were made orally.

The response by Mr J Wilkinson on behalf of Rivendale Developments Ltd

7. The response was made orally at the hearing. The appellant stated that it did not use the appeal to evolve the scheme, the applicant was simply responding to the Council's statement, evidence and suggested reasons for refusal with the Inspectorate accepting the submissions. The applicant reiterated that there was no viability report from the Council until the appeal stage and no confidence that the Council would be making a decision quickly.

There was no oral response to the response by Mr J Wilkinson on behalf of Rivendale Developments Ltd by the Council at the hearing.

8. Parties in planning appeals normally meet their own expenses. However, the 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.

Application A: Reasons

9. With regard to Appeal A, the procedural matters raised by the applicant concern the Local Planning Authorities (LPA) lack of co-operation with the applicant and failure to adhere to deadlines during the application process.
10. The PPG states that the behaviour of an LPA which may give rise to a procedural award of costs relates to unreasonable behaviour 'at the appeal'¹. There is no substantive evidence before me which demonstrates that the LPA did not co-operate with the applicant during the appeal. The applicant's concerns relating to LPA officers relates to the non-determination of the application. Even if I took this matter into account, given the different versions of events before me and my conclusions on the main issues, they do not conclusively demonstrate unreasonable behaviour on the LPA's part, or that the appeal would have been avoided.
11. In terms of where a LPA's handling of a planning application prior to an appeal might lead to an award of costs, the PPG advises that if it is clear that the LPA will fail to determine an application within the time limits, it should give the applicant a proper explanation. Additionally, in any appeal against non-determination, the LPA 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 period².
12. The planning application was registered on the 18 November 2024, with a decision date deadline of 13 January 2025. The evidence from both parties demonstrates that following validation, the applicant submitted various additional information and amended plans between 3 December 2024 and 4 February 2025. Following this a meeting was held on 2 April 2025 with amended plans submitted on the 5 April 2025 and the appeal against non-determination submitted on the 6 April 2025.
13. Although I acknowledge the time constraints on the applicant imposed in the land contract, from the evidence before me it appears that the Council and applicant were working together towards a decision. While I acknowledge the time period between the 4 February submission of information and the meeting on the 2 April, given the matters discussed at that meeting, and subsequent submission of plans with the appeal to address matters of noise and viability, the reasons for the Council's failure to determine the application, and its concerns, in addition to the need for the application to be determined at a Planning Committee, were clear to the applicant.
14. While the Council did not produce a detailed viability assessment or carry out a full written heritage assessment until the appeal stage, this is not altogether unsurprising given that the appeal is against the non-determination of the planning application with discussions on-going at the time that the appeal was submitted. Furthermore, the appellant had time to respond to these as part of the appeal process and as such the approach was not unreasonable.

¹ National Planning Practice Guidance. Paragraph: 047 Reference ID: 16-047-20140306.

² National Planning Practice Guidance, Paragraph: 048 Reference ID: 16-048-20140306.

15. For the above reasons, I do not find that costs should be made against the Council.

Application B: Reasons

16. With regard to Application B, although I have found in the applicant's favour in relation to the main appeal, the Council have a right to apply for costs and to put forward its case. The Council have clearly detailed the reasons for its costs claim citing grounds within the PPG. The applicant made a judgement to submit amended plans with the appeal in full knowledge that acceptance of the information is a matter for the Inspector considering relevant case law. Given that the Council accept that the amended plans overcome one of its suggested reasons for refusal, this required little additional time from the Council and aided the running of the hearing. I do not therefore find that this amounts to unreasonable behaviour.
17. Given that the application remained undetermined in April, Mr Wilkinson on behalf of Rivendale Development Ltd was within its right to submit an appeal against non-determination. Furthermore, the very nature of an appeal against non-determination is that the appellant is not fully aware of the Council's final reasons for refusal such that the submission of a rebuttal of any suggested reasons for refusal is to be expected and reasonable. I do not find that the appellant went beyond this.
18. Furthermore, the change of appeal procedure to a hearing and the date for the hearing rest with the Planning Inspectorate and not the applicant.
19. For these reasons I do not find that costs should be made in the Council's favour.

Conclusions

20. In light of the above, I do not find that either party acted unreasonably. Accordingly, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in either case.
21. Therefore, both Application A and Application B for the award of costs must fail.

C Rose

INSPECTOR