
Costs Decision

Site visit made on 2 December 2025

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 March 2026

Costs application in relation to Appeal Ref: APP/K3605/W/25/3374058

The Warehouse, 47 Thames Street, Weybridge, Surrey KT13 8JG

- 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 Nick Jones for a full award of costs against Elmbridge 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 planning permission described as “basement with entrance gates”.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 contends that the Council has acted unreasonably on both substantive and procedural grounds and therefore seeks a full award of costs. The issue is centred around the validation and non-determination of the planning application, such that the applicant was put to the cost of lodging an appeal.
4. My appeal decision, which accompanies this costs decision and should be read in conjunction with it, explains why the applicant through their disputing of the Council's position in not validating the application, effectively amounted to notice under Article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and as the Council maintained their position, this represented a Non-validation Notice and the time periods for decisions set out under section 78(2) of the Town and Country Planning Act 1990 (as amended) were applicable.
5. Although in an email to the Council dated 23 October 2025, the case officer from the Planning Inspectorate stated that the application was considered to be valid from the date the fee was paid which was 13 May 2025, this was in relation to whether the non-determination appeal had been submitted prematurely. This correspondence does not constitute a formal decision.
6. As will be seen from my appeal decision, irrespective of whether the applicant could have submitted addendums to the technical reports, such a request for updated reports was not reasonable when having regard to the nature and scale of

the proposed development, the material considerations and the Council's published validation requirements. I acknowledge the Council's rationale on this, but the application was valid from when the fee was paid and not from 23 October 2023.

7. It is commendable that the Council were assessing how to validate the application before the non-determination appeal was submitted. Nevertheless, based on then the fee was paid, the Council has indicated that the statutory determination date would have been 8 July 2025. As the appeal before me was made on 02 October 2025, the applicant has not acted unreasonably in exercising their right to appeal against non-determination.
8. There is nothing substantive before me to show that the application was delayed through the Council's consultation with their consultees. Whilst the Council did initially request further archaeological information, this was not pursued further. I am therefore unable to identify any unacceptable behaviour on these matters.
9. The Council has drawn my attention to several other appeals. However, as only the reference number has been provided, I am unable to understand the background to these cost decisions and their relevance. Notwithstanding this, my decision is based on the specifics of the case before me.
10. For the above reasons, the failure by the Council to validate the application and determine it by the statutory decision date has led directly to the applicant having to submit the appeal against non-determination and incurring the expense.

Conclusion

11. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a full award of costs is justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Elmbridge Borough Council shall pay to Mr Nick Jones, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Elmbridge Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L Reid

INSPECTOR