



Costs Decision

Hearing held on 10 February 2026

Site visit made on 10 February 2026

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2026

Costs application in relation to Appeal Ref: APP/P0240/W/25/3374425

Land at Unit B, Normandy Lane, Biggleswade, Central Bedfordshire SG18 8QB

- 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 Dunmoore Group for a full award of costs against Central Bedfordshire 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 new vehicular access off Pegasus Drive and additional parking provision.
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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 application for costs is made on the basis of the following:
 - i. Failure to determine the application within the statutory period despite the submission of full and comprehensive technical evidence.
 - ii. Failure to engage constructively with the appellant during the determination process.
 - iii. Changing the basis of objection several times without sound technical or policy justification.
 - iv. Issuing formal highways objections only on 18 September 2025, almost six months after validation.
 - v. Failure to refer the application to Planning Committee following a formal call-in request by a Ward Councillor.
 - vi. Delaying development which should clearly have been permitted.
 - vii. Failure to produce evidence to substantiate each reason for refusal or objection.
 - viii. Not determining similar cases in a consistent manner.

Each of these alleged examples of unreasonable behaviour are addressed below.

Failure to determine the application

4. Although the Council failed to determine the application within the statutory period, there were substantial exchanges between the Council and the applicant throughout this time. In addition, two extensions of time were agreed to accommodate updated information submitted on 5 September 2025, 17 September 2025, and 2 October 2025. This indicates that the Council was not satisfied that full and comprehensive technical evidence had been submitted initially, and that further clarification was required before the application could be properly assessed.
5. The Council accepted and considered additional information, despite not being obliged to do so, and communication continued up to the point the appeal was submitted, with an amended plan provided only days before. This demonstrates that the Council was actively engaging in efforts to resolve outstanding matters. In these circumstances, the failure to determine the application does not amount to unreasonable behaviour.

Failure to engage constructively

6. Although the Council did not meet with the applicant's highways team to discuss technical issues, it did provide written responses to each submission. The Council's decision not to engage with the applicant in respect of the Road Safety Audit (RSA) does not indicate procedural failing, as it was under no obligation to hold meetings. This does not constitute unreasonable behaviour.

Changing basis for the objection

7. While the Council's early comments related primarily to junction spacing and design standards, and later concerns addressed the need for the access and the potential impacts on pedestrian and cycle infrastructure, its position evolved in response to the applicant's submissions. The Council's subsequent comments did not replace or contradict earlier concerns; rather, they built upon them. Instead, the Council consistently expanded its reasoning as additional information became available. This represents a natural progression of the assessment, reflecting the iterative nature of the consultation process, rather than a change of position or unreasonableness.

Issuing formal highways objections six months after validation

8. The Council issued formal highway consultation responses on 17 April and 12 June 2025, with a further response dated 29 July 2025. Although the applicant maintains that the 29 July response did not appear online until 18 September 2025, there is nothing before me to demonstrate that it was not available prior to that date. In any event, given the existence of two earlier formal highway responses, it is not reasonable to claim that no highway objection was received until six months after validation.
9. While the 29 July response is the only consultation response that expressly refers to Manual for Streets (MFS), the peer review dated 15 September 2025 also cites this document, as does the publicly available Highway Construction Standards and Specifications Guidance (HCSSG), which is incorporated through Policy T2 of the Central Bedfordshire Local Plan 2015–2035 (Local Plan). As these documents pre-date the 18 September 2025 and form part of the evidence base of the applicant and the relevant technical and policy framework, the absence of an earlier

explicit reference to MFS cannot reasonably be said to amount to procedural unfairness.

10. Although the applicant asserts that no meaningful opportunity was provided to address the late comments, the applicant had engaged with earlier consultation responses, and there is no reason why a similar response could not have been made to the later comments.

Failure to refer application to Planning Committee

11. A call-in request was made months after notification of the application and did not include a planning reason. Under the Council's Scheme of Delegated Decision-Making, requests must be submitted within 28 days and must state a planning reason. As the application generated no local representations and the request did not comply with the Scheme of Delegated Decision-Making, the Council was under no obligation to refer the application to Committee.
12. The applicant cites a site where the Council did not follow its Scheme of Delegated Decision-Making; however, I am not aware of the circumstances of that case. Moreover, that example involved a request made only marginally outside the 28-day period. By contrast, the appeal scheme call-in request was made approximately six months after the Ward Councillor's initial response. The circumstances are therefore materially different to the proposal and do not demonstrate unreasonable behaviour, inconsistency or procedural unfairness.

Delaying development which should have been permitted

13. Although the Statement of Common Ground accepts that there is no policy conflict in principle with providing an alternative access, this does not equate to acceptance that the specific access proposed is acceptable. The absence of an in-principle conflict does not prevent the Council from raising concerns relating to design, visibility, or operational safety.
14. It is asserted that the Council acted unreasonably by failing to undertake a planning balance and by not giving weight to positive planning policies. However, the appeal proceeded as one against non-determination. In such circumstances, the Council is not required to prepare a full planning balance; their responsibility is limited to identifying the likely reasons for refusal had they determined the application. The Council fulfilled that requirement.
15. Having considered the evidence before me, I do not consider that it was unreasonable for the Council to indicate that they would have refused the proposal. The dismissal of the appeal confirms that the Council's likely reasons for refusal had substance grounded in policy. I therefore do not accept that the Council acted unreasonably or caused delay to development that ought to have been approved.

Failure to substantiate each reason for refusal

16. The Council identified three reasons for refusal, all relating to highway safety and Local Plan Policy T2. The applicant asserts that the Council's case was unsupported by reliable evidence of conflict or hazards for pedestrians and cyclists. However, the Council's stated reason refers to "users of the highway, including pedestrians and cyclists," which does not exclude motorists. While I accept that the

- proposal would not result in an unacceptable increase in risks to pedestrians and cyclists, this does not encompass the full scope of the Council's concerns.
17. Although the applicant submitted four documents seeking to demonstrate that the proposal would not give rise to highway safety concerns, it is not accepted that the scheme complies with all standards. The evidence indicates that the proposal fails to demonstrate compliance with minimum sight-distances set out in MFS. In addition, the Peer Review acknowledges that the Council's concerns regarding the access's proximity to the roundabout and to other nearby junctions are valid. While the RSA and Road Safety Assessment do not identify any significant issues, these processes are not required to evaluate whether the proposed access accords with the relevant development plan policies. Moreover, as explained in my decision, the inconsistencies between the Peer Review and the Road Safety Assessment demonstrate that subjective professional judgement forms an inherent part of these evaluations.
18. The Council's visibility diagram is criticised for being unreliable and partial, and it is accepted that greater visibility is available in practice. However, paragraph 4.7 of the costs update asserts that when visibility and speeds are properly understood, no issues arise. Speeds, however, are not understood. Although the submitted documents refer to adequate visibility, visibility is fundamentally linked to vehicle speed. The evidence does not demonstrate exit speeds from the roundabout, nor does it show that the junction would operate safely if vehicles were travelling at or close to the speed limit when approaching the junction. This represents an evidential gap and reinforces the reasonableness of the Council's continued concerns regarding the safety implications of the access.
19. It is claimed that the Council improperly relied on the HCSSG and Design Manual for Roads and Bridges (DMRB). However, the HCSSG is referenced in Policy T2 and is therefore relevant. Although the April and June consultation responses incorrectly relied on HCSSG standards, the DMRB requirements are more onerous, and therefore reliance on the HCSSG did not present a more stringent position than the DMRB. As the HCSSG states that schemes exceeding its thresholds should follow DMRB and MFS2, it was not unreasonable for the Council to consider the DMRB. The weight afforded to it, given its relevance to trunk roads, can simply reflect its relevance in the context of the proposal. The reason for refusal was therefore adequately substantiated.

Not determining similar cases in a consistent manner

20. Whilst it may have been possible to create the proposed access when the Local Development Order was extant, it has not been in force since October 2020, and the surrounding context at that time was materially different. As such, it would not be appropriate to conclude that the Council has been inconsistent in its decision-making based on circumstances that no longer apply.
21. Overall, having considered the full circumstances of the case, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, has not been demonstrated, and an award of costs is not warranted.

V Goldberg

INSPECTOR