
Costs Decision

Site visit made on 10 February 2026

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th March 2026

Costs application in relation to Appeal A Ref: APP/U2235/W/25/3374529

Land north of Old Ashford Road, Lenham, Kent ME17 2GT

- 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 Red Iskandar on behalf of Abbey Developments Ltd for a full award of costs against Maidstone 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 consent, agreement or approval to details required by a condition of a planning permission.
-

Costs application in relation to Appeal B Ref: APP/U2235/W/25/3374530

Land north of Old Ashford Road, Lenham, Kent ME17 2GT

- 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 Red Iskandar on behalf of Abbey Developments Ltd for a full award of costs against Maidstone 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 consent, agreement or approval to details required by a condition of a planning permission.
-

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. PPG paragraphs 047 and 049 provide examples of behaviours which may give rise to substantive or procedural awards of costs against a local planning authority¹. These include lack of co-operation with the other party or parties; delay in providing information or other failure to adhere to deadlines; and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant alleges they incurred unnecessary expense in the appeal process through the Council's failure to provide comments on submitted detailed information and revised details; failure to issue split decisions where details had been approved

¹ PPG Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306 and

by external consultation bodies; and failure to determine the applications within a reasonable timeframe.

5. As set out at paragraph 033 of the PPG, costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding. However, I may take into account behaviour and actions at the time of the planning application in my consideration of whether costs should be awarded².
6. Submitted correspondence suggests there was ongoing communication between the parties, following submission of the planning applications. Therefore, the evidence before me does not demonstrate a lack of co-operation on the part of the Council regarding comments on submitted and revised information.
7. However, the Council did not issue decisions within the statutory timeframe. The Council explains that consultation with external bodies and staff turnover delayed the determination of the applications. Whilst the Council allege the applications lacked contextual information, concerns regarding the completeness of the applications could have been resolved at the validation stage.
8. The letter dated 26 September 2025 from Abbey Developments Ltd expresses frustration that five months had elapsed since validation of the planning applications and explains the effect of the delay in terms of costs and delivery of the approved development, including implications for the workforce. Even taking into account the requirements for consultation with third parties, the eight-week statutory timescale was significantly exceeded.
9. In its email dated 03 October 2025, the Council expresses an aim to issue decisions for those matters which can be determined by 10 October 2025 and provide a realistic timescale for determination of other matters. The applicant's email dated 08 October 2025 accepts the 10 October deadline but did not agree to an extension of time beyond this date.
10. Decisions were not issued by the agreed deadline. The Council cannot unilaterally extend the period for determination of the application and therefore it failed to issue decisions within the statutory timescale and by the mutually agreed date.
11. Where an applicant has concerns about the timeliness of a planning authority in giving notice of a decision to discharge a condition, they may secure the 'deemed discharge' of the condition. However, Appeal A and Appeal B concern conditions relating to matters of flood risk with alleged impacts in respect of the integrity of European sites. Therefore, the exemptions at Article 30 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 would have precluded the applicant from serving a Deemed Discharge Notice.
12. The Council indicate that had they been in a position to determine the applications, they would have issued split decisions in respect of both proposals. Therefore, some matters would have remained in dispute, necessitating resolution through the appeal process. It is also my understanding that, at time of my decision, the Council has discharged some conditions through determining separate applications.
13. Nonetheless, the failure to issue timely decisions directly lead to the appeals, which included a number of conditions which would have been discharged had the

² PPG Paragraph: 033 Reference ID: 16-033-20140306

Council issued its decisions in an appropriate timeframe. Consequently, the Council's failure to issue timely decisions frustrated the planning process and amounted to unreasonable behaviour. As a result, the applicant incurred unnecessary expense through instructing a planning consultant to prepare and submit the appeals.

14. For the reasons given above, in respect of both Appeals A and B, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

15. 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 Maidstone Borough Council shall pay to Abbey Developments Ltd 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.
16. The applicant is now invited to submit to Maidstone 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.

E Dade

INSPECTOR