



Costs Decision

Site visit made on 7 May 2025

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2026

Costs application in relation to Appeal Ref: APP/E2205/W/24/3352178

The Crown Inn, The Street, Stone, Kent TN30 7JN

- 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 O Tymon and Mr C Conrath for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal of planning permission for change of use, conversion and extension of former public house to a single residential dwelling, extension and conversion of an existing annexe to provide an independent dwelling, conversion of an existing shelter to a summer house/office, creation of a new parking area together with hard and soft landscaping.
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This decision supersedes that issued on 10 June 2025. That costs decision was quashed by order of the High Court.

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. Unreasonable behaviour in the context of applications for an award of costs may either be procedural relating to the process or substantive relating to the issues arising from the merits of the appeal.
4. I have been made aware of the planning history for the property which includes a previous application for a similar proposal refused by the Council in February 2023. This application was refused on ecology grounds only and marketing of the public house was not deemed to be an issue so as to constitute a reason for refusal.
5. Whilst marketing of the public house took place during the period between refusal of the first application and submission of the second application, subject of this appeal, the particulars of sale remained unchanged. The marketing evidence submitted with the second application was not new nor was it substantively different from that considered by the Council previously. Furthermore, there is nothing before me to suggest that during this period there was a material change in circumstance or planning policy. In this regard the Council has acted unreasonably by not determining similar cases in a consistent manner.

6. In terms of the second application, the feedback provided by the case officer and the Council's Economic Development Team during the course of the application clearly indicated that the submitted marketing evidence was satisfactory and met the requirements of Policy EMP10. As such, there was a reasonable expectation that the application would be supported as evidenced in the case officer's e-mail (dated 18 April 2024) to the applicants.
7. The marketing evidence should have been subject to close scrutiny from the outset. Any shortcomings or ambiguity should have been identified at an early stage by the Council and should have been apparent during the first application. The Council had ample opportunity to highlight any issues to the appellants in respect of the particulars of sale and the marketing evidence during both the first and second applications.
8. The shortcomings identified by the Council regarding the marketing evidence some 8 months into the second application when it had not been raised previously or deemed an issue would have come as a complete surprise to the applicants. To my mind, this constitutes unreasonable behaviour and does not follow good practice.
9. I also sympathise with the applicants in the way the application, subject of this appeal, was handled. Based on the available information there appears to have been protracted discussions over several months but then much haste by the Council to refuse the application once the shortcomings of the sales and marketing evidence had been identified. In this regard the Council has not exercised their duty to determine the application subject of this appeal in a reasonable manner.
10. Despite the above, there was only one reason for refusal which was relevant to the application with the decision notice clearly stating the development plan policy that the proposal conflicted with. Moreover, the Inspector who determined the appeal agreed with the Council with regard to the merits of the application. From that point of view therefore, there has been no wasted expense as it is not the case that the development should clearly have been allowed.
11. I appreciate this is a different decision to the previous Inspector. However, I have had the benefit of the Council's comments and, having taken them into account, I am satisfied that a different decision is justified.

Conclusion

12. Therefore, whilst the Council has behaved unreasonably, it has not resulted in unnecessary or wasted expense, as described in the PPG. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

B Thandi

INSPECTOR