



Costs Decisions

by H W Jones BA(Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 18/12/2025

Costs applications in relation to Appeal Refs: CAS-03795-L9Y4M5 & CAS-03825-P0F7S1

Site address: Little Bank, 8 Porthycarne Street, Usk, NP15 1RY

Application A: in relation to Appeal Ref: CAS-03795-L9Y4M5

- The application is made under Section 181 of the Historic Environment (Wales) Act 2023.
 - The application is made by Ms R Lloyd and Mr D Perry for a full award of costs against Monmouthshire County Council.
 - The appeal was against the refusal of listed building consent for works described as “Proposed extension, external and internal alterations to existing dwelling. Including infill roof over external staircase forming link structure. Construction of amenity space balcony. Replacement timber joinery internally and externally. Positioning of Air Source Heat Pump”.
 - A site visit was made by the Inspector on 14 October 2025.
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Application B: in relation to Appeal Ref: CAS-03825-P0F7S1

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Ms R Lloyd and Mr D Perry for a full award of costs against Monmouthshire County 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 works described as “Design variations to Planning Permission Ref:- DC/2013/00985. including modified link structure and Construction of amenity balcony”.
 - A site visit was made by the Inspector on 14 October 2025.
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Decisions

1. Application A for an award of costs is refused.
2. Application B for an award of costs is approved in the terms set out below.

Reasons

3. The Section 12 Annex ‘Award of Costs’ of the Development Management Manual (‘the Annex’) advises that, irrespective of the outcome of an appeal, costs may only be

awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.

4. The basis of both applications is that taking over 2 years to determine the listed building consent and planning applications was unjustified and that the Council's behaviour during that time was unreasonable in failing to respond to communications from the applicants and their agents.
5. There are issues raised by the applicants which are outside the scope of the costs regime for the 2 applications under consideration, these include complaints to the Ombudsman, allegations over the safety of the building and implications for building control, and the behaviour of others.
6. It is clear that both applications became protracted. However, the scope of these costs applications are limited to the appeal process and matters that directly influence such proceedings. Matters such as the effects of any delay on the household's personal circumstances are outside scope, as are the costs incurred in engaging architects in pursuing those applications with the Council.
7. It was open to the applicants to submit an appeal against non-determination in respect of both the applications, once the statutory 8-week periods had expired. It is evident that the applicants chose to engage with the Council in efforts to seek amendments to the scheme that would secure a positive outcome to those applications. Indeed, there were several iterations of the drawings that were presented during this time, which were deemed necessary because of issues identified with the original submission, including inaccuracies.
8. The need for revised drawings and clarification of the extent of the works and the status of previous consents meant that the case was somewhat complicated. It seems that the need to appoint new agents to represent the applicants contributed to that complexity.
9. With regard to the listed building consent (LBC) application and noting the photographic evidence of its position on the site, the applicants are firmly of the view that it was clearly their intention to seek consent to position the air source heat pump (ASHP) at ground level. However, that is simply not what the latest drawings depicted at the time of that decision. The Council has explained that it had sought to negotiate with the applicants' agent to resolve outstanding issues including the number and position of ASHPs. It is evident that the negotiations resulted in the submission of amended plans in relation to biodiversity enhancements and the detailing around the new window but not in relation to the 2 ASHPs. In the circumstances its decision to determine the application on the basis of the amended drawings presented on behalf of the applicants was not unreasonable. Accordingly, the applicants have not incurred wasted expense in pursuing the LBC appeal the subject of application A.
10. I turn to consider application B. The Council explains that in July 2024, after the refusal of the LBC application, it received amended plans that showed the omission of the 2 ASHP at first floor level of the northeast elevation and the inclusion of 1 unit at ground level. There is no dispute that the amendment addressed the concerns that led it to refuse LBC, and the Council accepts that there were no longer grounds to withhold planning permission. It does not explain why it did not issue the planning permission at that time.
11. Paragraph 3.10 of the Annex identifies the failure to determine an application within the statutory limits, "where it is clear that there was no substantive reason to justify delaying the determination" as an example of unreasonable behaviour. In this case the Council took no action following receipt of acceptable drawings until the appeal for non-determination was lodged some 3 to 4 months later. This failure to determine the

application was unreasonable and caused the appellant to pursue an appeal thereby incurring wasted expense. Thus a full award of costs is justified and the application for an award of costs is allowed in the terms below.

Conclusions

Application A

12. The application for an award of costs is refused.

Application B - Costs Order

13. In exercise of the powers under Section 322C 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 Monmouthshire County Council shall pay to Ms R Lloyd and Mr D Perry, 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.
14. The applicants are now invited to submit to Monmouthshire County 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.

H W Jones

INSPECTOR