
Costs Decision

Site visit made on 20 May 2025

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

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Costs application in relation to Appeal Ref: APP/G5180/D/24/3352298

Luxted Farm Barn, Luxted Road, Downe, Orpington, Bromley BR6 7JT

- 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 Residential Creations for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of planning permission for erection of single storey front extension to existing dwelling.
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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. PPG paragraph 49 provides examples of types of behaviour that may give rise to a substantive award of costs against a local planning authority, such as 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; failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant asserts that the proposal and the planning officer's assessment, as provided in its committee reports, set out clearly how the application complies with the development plan and the National Planning Policy Framework (the Framework). The applicant therefore considers the Council prevented and delayed development which should clearly be permitted.
5. However, the Council assert the proposal would conflict with Policy 51 of the Bromley Local Plan 2019 which requires extensions to dwellings in the Green Belt not harm visual amenity or the open or rural character of the locality by virtue of its size, siting, materials and design; and not result in a significant detrimental change in the overall form, bulk or character of the original dwellinghouse.
6. The minutes of the meeting of the Planning Committee in August 2024 indicate that some members felt more weight should be given to the proposed design, including whether it would have a detrimental impact on the area's character and whether it would be in-keeping with the look of the area. The Council's costs rebuttal provides

- some additional clarification, suggesting the way in which the proposed extension manifests itself extending from the main form of the house is considered to be visually prominent and out of keeping with the host property and its surroundings.
7. Paragraph 7.2.9 of the committee report concludes the dwelling is not within a conventional street scene, the proposal would not be viewed in the context of its neighbours, and the proposal would not detract from a prevailing local character or setting. The assessment found the proposed extension would remain subservient in footprint, size, scale and mass to the constructed dwellinghouse, and would not appear to overdevelop the plot, appear cramped, or dominate the dwellinghouse.
 8. The Planning Committee is not obliged to follow the recommendation of officers, and assessment of design and character requires the decision-maker exercise judgement, thus introducing an element of subjectivity to the assessment process.
 9. However, the locations from which the proposal would appear visually prominent are not identified and the effects on the Green Belt's visual amenity and its open or rural character are not explained. Furthermore, the submitted evidence does not demonstrate the development would result in a significant detrimental change in the overall form, bulk or character of the original dwellinghouse.
 10. Therefore, whilst the Council has raised concerns with the design approach, it has provided no objective analysis to demonstrate the proposal would represent a disproportionate addition constituting inappropriate development. The submitted evidence fails to quantify the effects of the proposal on the fundamental aim, essential characteristics, and purposes of the Green Belt.
 11. The Council's assertion that the proposal would conflict with Policy 51 is not supported by objective analysis, and the Council has failed to produce evidence to substantiate the reason for refusal. The Council therefore prevented development which should clearly be permitted. Since the appeal could have been avoided, the applicant incurred unnecessary expense in the appeal process.
 12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

13. 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 the Council of the London Borough of Bromley shall pay to Residential Creations, 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 applicant is now invited to submit to the Council of the London Borough of Bromley, 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