



Costs Decision

Site visit made on 7 July 2025 by A Conteh

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2025

Costs award in relation to Appeal Ref: APP/T2215/D/25/3360169

28 Carrington Road, Dartford, Kent, DA1 1XW

- The award 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 appeal was made by Ms Seendy Ramoutar against the refusal of failure of Dartford Borough Council to grant prior approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. A full award of costs is made against the Council in accordance with the terms set out in the Order.

Procedural Matters

2. Following the issue of my decision on 31 July 2025 the Planning Inspectorate's Costs and Decisions Team wrote to the Council to say that I was considering whether to make an award of costs to the appellant. This was on the grounds that the Council had:
 - Failed to follow well-established case law when determining the application: The application was made for prior notification under Schedule 2, Part 1, Class A, paragraph A.4.(2) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). For any such application under the GPDO the courts have held that the local planning authority is bound to consider and determine whether the development otherwise falls within the definitional scope of the particular class of permitted development. Therefore, the Council should have considered whether the proposal met the conditions, limitations and restrictions set out in Class A, to determine whether the development would potentially be permitted by that Class. The Council's officer report does not show any indication that assessment was carried out.
 - Incorrectly assessed the impact of the proposal on amenity when that prior approval matter was not engaged: The Council considered that prior approval was required and refused prior approval on the grounds that the proposal would harm the amenity of the neighbouring property. However, Schedule 2, Part 1, Class A, Paragraph A.4(7) of the GPDO is clear that prior approval is required only where an owner or occupier of an adjoining premises objects to the proposed development. The Council's officer report clarifies that no objections were received to the proposal. Therefore, the proposal did not require prior approval. The Council's decision notice therefore incorrectly asserts that prior approval is required for the proposed development.

- Incorrectly assessed the proposal against a policy of the development plan as if the proposal were a planning application, and refused the scheme on that basis: The GPDO does not make any provision for development plan policies to be considered in an application under Class A, in the way that they would be considered in a planning application. There was no recognition in the Council's officer report that development policies can be material considerations in such applications, but are not determinative.
- Prevented or delayed development which should clearly have been permitted under the terms of the GPDO: The Inspector found that prior approval was not required, having assessed the proposal against the conditions, limitations and restrictions set out in Class A of the GPDO. Had the Council followed the correct procedural requirements of the GPDO, it would have reached the same conclusion.

The Council's response

3. The Council sets out that on a review of the decision, it accepts that the procedure for assessing the prior notification application under Schedule 2, Part 1, Class A, paragraph A.4.(2) of the GPDO was not followed correctly on this occasion.
4. The Council sets out that the circumstances that meant that the errors in procedure were not identified before the decision was issued, and advises that it has taken action to ensure that these errors are not repeated. Training has been provided to staff members to ensure they are fully aware of the correct procedure. The template report for this type of application has been amended to ensure that the case officer is prompted to consider the development under Class A first and foremost, and to make it clear that an assessment of the merits of the proposal cannot take place unless an objection is received from a neighbour.
5. The Council sets out its regrets in relation to the errors and advises that it will be contacting the applicant and their agent to apologise. It asks that I take account of the circumstances explained and that it has acted swiftly to ensure that the same mistake is not repeated. It also asks me to note that this is the first instance of any such potential costs award against the Council unilaterally by an Inspector and that generally, over the last few years, no costs have been awarded against the Council indicating that this is not indicative of unreasonable behaviour related to a systemic failure of process or personnel.

Reasons

6. 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 receiving party to incur unnecessary or wasted expense in the appeal process.
7. The PPG sets out that one aim of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities and to rely only on reasons for refusal which stand up to scrutiny.
8. In this case, the Council acknowledges that it failed to follow the correct procedures when determining the appellant's application for prior notification under Schedule 2, Part 1, Class A of the GPDO. It does not seek to defend any of the grounds set out above other than by explaining how this situation arose.

9. Accordingly, for the reasons set out in the grounds above, the Council failed to follow well-established case law when determining the application. It incorrectly assessed amenity when that prior approval matter was not engaged, and incorrectly applied development plan policy as if it were a planning application. It has not sought to provide any substantive reasons for taking this approach. I consider each of these to be unreasonable behaviour.
10. In my appeal decision I found that the proposal complied with the relevant conditions, limitations and restrictions of Class A of Part 1, Schedule 2 of the GPDO. In the absence of any objection from a neighbour, prior approval in relation to amenity was not required. Therefore, the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 1, Class A of the GPDO. The Council does not seek to suggest that it would have reached a different conclusion had it followed this approach, as set out in the legislation. Consequently, it prevented or delayed development which should clearly have been permitted under the terms of the GPDO. This was also unreasonable behaviour.
11. I appreciate that as soon as the Council became aware of the error it has taken swift action to seek to avoid a repeat of this situation. I also appreciate that it is going to apologise to the appellant. The Council's efforts to address the situation are commendable. There is no evidence before me to suggest that this situation is indicative of any systemic failure by the Council. Nevertheless, due to the Council's errors the appellant has had to make an appeal when it should not have been necessary. This has resulted in the appellant incurring unnecessary expense in relation to the costs of making and defending the appeal.
12. For the reasons given above, I find that unreasonable behaviour by the Council 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 Dartford Borough Council shall pay to Ms Seendy Ramoutar, 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.

Ms Seendy Ramoutar is now invited to submit to Dartford 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.

L McKay

INSPECTOR