
Costs Decision

Site visit made on 28 August 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 September 2025

Costs application in relation to Appeal Ref: APP/E2205/D/25/3368924

Gorse Farm, Pook Lane, Biddenden, Kent TN27 8JJ

- 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 Steve Forrest for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a single storey outbuilding to be used as annexe for elderly family member.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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. The appellant submits that the Council has not determined similar cases in a similar manner; acted contrary to, or not following, well-established case law; and prevented the development when it should have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. For the reasons set out in my main decision, I accepted the appellant's arguments that the scheme would be a residential annexe ancillary to the use of the host property, and there would be no harm to the character and appearance of the existing dwelling and surroundings. I therefore concluded that the appeal should be allowed, although this in itself does not indicate unreasonable behaviour on the part of the Council.
5. Part of the appellant's case is that the Council did not have sufficient regard to its decisions in respect of similar ancillary outbuildings to the proposed development in this case, in particular Council reference PA/2024/1664, which relates to Mcguinness House, Pook Lane, Biddenden. This property lies immediately adjacent to the appeal site, and I have been provided with relevant details of the application.
6. Although not identical, in the key matters of the relationship with the host property, and the imposition of a condition to ensure the outbuilding is not occupied or used at any time other than for purposes ancillary to the residential use of the main dwelling, the two schemes are to my mind almost as alike as could be. Having read

the delegated report to PA/2024/1664, I cannot fathom why the Council has not reached the same conclusions for Gorse Farm. Whilst I note that there is a difference in floor space and layout, this is not significant enough to explain the radically different approach taken.

7. In respect of case law, my attention is drawn to *Uttlesford DC V SOS and White 1992*. I am mindful that the judge considered that even if the accommodation provided facilities for independent day to day living, it would not necessarily become a separate planning unit from the main dwelling – instead, it would be a matter of fact and degree.
8. I have set out in my main decision the myriad reasons why the scheme would be a residential annexe ancillary to the use of the host property; in my view, the Council has not examined such mitigating circumstances sufficiently. Whilst the delegated report lists various factors that are typically given weight in an assessment, many of these are not analysed subsequently. Instead, there is a narrow focus on the size and internal layout, rather than the other matters I have addressed, such as the extremely close and intimate physical relationship with the main dwelling, whether there is independent access, sharing the rear garden and utilities and so on.
9. I am told that since planning permission was refused, pre-application advice has been issued by the Council to indicate that a smaller annexe would likely be considered acceptable. This does not alter the outcome of this costs claim.
10. In summary, therefore, it is apparent that in refusing this proposal, the Council has not been consistent in its approach to development within the area and has not followed well-established case law. This has led the applicants to incur unnecessary and wasted expense dealing with this matter on appeal. As a result, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has been demonstrated and a full award of costs is justified.

Costs Order

11. 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 Ashford Borough Council shall pay to Mr Steve Forrest 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.
12. The applicant is now invited to submit to the 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.

C Hall

INSPECTOR