



Costs Decision

Site visit made on 21 August 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th September 2025

Costs application in relation to Appeal Ref: APP/E2205/W/25/3364504 Pemsey Field View, Lees Road, Brabourne, Kent TN25 6QB

- 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 Stuart Morel for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use of storage building to a two-bed dwellinghouse, to include two parking spaces and garden area.
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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. The applicant alleges that the Council has behaved unreasonably on substantive and procedural grounds. These primarily relate to the first 2 reasons for refusal, and in particular:
 - not determining the appeal in a consistent manner with other identified similar cases,
 - failure to produce technical evidence to substantiate the second reason for refusal, specifically regarding the parking layout and associated manoeuvring required; and
 - refusing planning permission for reasons capable of being dealt with by conditions or minor amendments to the proposal.
4. Regarding the standard of accommodation, the applicant cited several comparable cases involving front-facing habitable windows, limited or no amenity space, and overlooked bedrooms. The Council disputed their relevance, noting differences in location—most were in or near town centres—and provided site-specific reasons for its decision. While the Council's dismissal of those examples could have been more detailed, it offered a reasoned assessment in both its officer report and costs rebuttal, including consideration of the neighbouring balcony, the narrow amenity space, and overall outlook and privacy.
5. Although I reached a different conclusion on the planning merits, the Council's approach was neither irrational nor unsupported. It assessed the standard of

- accommodation holistically, and given its focus on site-specific factors, a more detailed comparison with other cases would not necessarily have changed the outcome.
6. The applicant disputed the need for on-site parking, but the Council relied on a clear policy requirement for two spaces. The applicant did not submit tracking plans or technical evidence to demonstrate manoeuvrability, leaving the Council to make its own judgment. Although I found the layout acceptable, the Council was entitled to rely on its own assessment. While highways expert evidence may be helpful, its absence does not amount to unreasonable behaviour. The Council was not obliged to commission such evidence, and its decision was based on the information available. It is also relevant that the applicant did not provide technical justification, so no unnecessary or wasted expense was incurred.
 7. The Council did not explain why the approved development on Lees Road was not considered comparable, which I acknowledge may have caused some uncertainty. However, that scheme involved a reduced parking demand, and there is no evidence that the same applies here.
 8. The applicant argues that concerns about accommodation and parking could have been addressed through conditions. While I identified conditions that would make the development acceptable, the Council had considered this and concluded that some—such as screening—would not be enforceable due to land ownership constraints. Although I reached a different view, there is clear evidence that the Council gave due consideration to the use of conditions.
 9. The Council is not required to negotiate amendments, and the lack of engagement does not amount to unreasonable behaviour. While I understand the applicant's disappointment at not having the opportunity to resolve issues, the Council must meet statutory deadlines and is under no obligation to seek amendments.
 10. On the third reason for refusal—impact on European Designated Sites and lack of mitigation—the applicant contends that permission should have been granted subject to an appropriate assessment. However, even if the proposal were acceptable in other respects, the Council was not required to delay its decision pending a strategic mitigation strategy and was entitled to refuse permission in the absence of adequate mitigation.
 11. While the applicant has referenced the need to pay additional planning application fees, I can only consider costs incurred during the appeal process. There is no evidence that the Council's actions led to unnecessary or wasted expense in this regard.
 12. Although the Council could have provided more detailed reasoning in some areas, its actions were not unreasonable in the context of the appeal. The decision to refuse planning permission was based on site-specific considerations and supported by policy. Accordingly, and notwithstanding the outcome of my appeal decision, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the Planning Practice Guidance, has not been demonstrated.

R. Lawrence

INSPECTOR