



Costs Decision

Site visit made on 2 September 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th September 2025

Costs application in relation to Appeal Ref: APP/V1505/W/25/3365174

14 Gordons, Pitsea, Basildon, Essex SS13 3DZ

- 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 Morris Kay for a full award of costs against Basildon Borough Council.
 - The appeal was against the refusal of planning permission for a first-floor side extension and the change of use from a 6-bed HMO (Class C4) to a 7-bed HMO (Sui-Generis).
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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. The applicant considers that the Council has behaved unreasonably by failing to substantiate its reason for refusal, ignoring material considerations, misapplying development plan policy and making inconsistent decisions. Consequently, the applicant alleges that the Council has prevented or delayed development which should clearly be permitted.
4. The Council refused planning permission for one reason. While an objection raised concern in respect of the main issue, the Council's Environmental Health Officer did not object to the proposal. Moreover, the Council has provided no additional evidence to substantiate its reason for refusal either within the Delegated Report or within an appeal statement. The Council identified conflict with Policy BAS BE12 of the Basildon District Local Plan Saved Policies 2007, which requires proposals to be refused where it causes material harm. In the absence of any evidence to demonstrate any harm, the Council has failed to apply the requirements of the policy.
5. The 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 are examples of unreasonable behaviour as set out within the PPG. Consequently, the Council has prevented or delayed development which should clearly be permitted.

6. The applicant has identified other proposals where the Council has taken a different approach in making their decision. As identified in case law¹, it is important that like cases are decided in a like manner so that there is consistency and therefore credibility in the development control system. Nevertheless, based on the evidence before me, I cannot be certain that the circumstances at each site are directly comparable. In any event, each proposal must be considered on its own individual merits and with appropriate regard to the development plan and any material considerations.
7. 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

8. 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 Basildon Borough Council shall pay to Mr Morris Kay, 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.

The applicant is now invited to submit to Basildon 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.

J Pearce

INSPECTOR

¹ *North Wiltshire DC v Secretary of State for the Environment* [1993]