
Costs Decision

Site visit made on 15 August 2025 by A Conteh

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th October 2025

Costs application in relation to Appeal Ref: APP/K2230/D/25/3366463

19 Berkley Road, Gravesend, Kent, DA12 2EU

- 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 Ms Sarah Swan for a full award of costs against Gravesend Borough Council.
 - The appeal was against the refusal of planning permission for replacement PVCu Windows to front and rear elevations in white with Astragal Bars and Replacement door in Black Composite and Black PVCu frame.
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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 PPG sets out examples of types of behaviour which may give rise to an award of costs against a Council. These include not determining similar cases in a consistent manner and 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.
4. The applicant suggests the refusal was inconsistent with 22 Berkley Road which received retrospective approval for similar works. The Council's response confirms that any original timber windows had already been removed, which is not the case in the current appeal, and that planning permission was granted retrospectively.
5. The Council's response seems to indicate that the retrospective nature of the development was a factor in its decision, given that local policy and guidance aims to protect original features. However, the Council has enforcement powers to require reinstatement of features removed without planning permission. Therefore, the fact that the development is retrospective is generally not a reason in itself to grant permission.
6. In this case, I have very limited information about how the Council came to its decision for 22 Berkley Road. For example, it is not clear when the original windows were removed and what the condition of the property was before the new windows were installed. I do not have details of the complete scheme or the full reasons why the Council's planning committee considered the scheme acceptable,

including consideration of any public benefits or other material considerations. Therefore, it has not been demonstrated that the circumstances were similar to those in the current appeal.

7. The applicant has referred me to numerous other examples of changes to windows and doors in the local area. I do not have full details of when or how these changes came to be made, whether they benefitted from planning permission and if so, what policies and guidance were in place at the time of the decisions.
8. There is also no substantive evidence before me that any unauthorised replacement windows and doors are being tolerated by the Council, as the applicant suggests. The Council advises that some have had permission granted retrospectively, but I do not have the full reasons for those decisions. There may be enforcement action being taken against those without planning permission; they may not have required permission at the time the development took place; or they may be outside the timeframe within which enforcement action can be taken. Therefore, it cannot be assumed that the Council has decided to tolerate those developments.
9. Therefore, it has not been demonstrated that any of these schemes were directly comparable to the appeal before me or that the Council's decisions were inconsistent, and I find no unreasonable behaviour in these respects.
10. The applicant also considers that refusal of the appeal scheme was disproportionate given substantial alterations permitted to Anglo Saxon Hall. I am advised that the scheme included change of use to flats and a house in multiple occupation, plus various alterations including replacement of existing windows with traditionally styled units. The Council advises that the permission allowed replacement of modern PVCu windows with traditional sash style windows and reinstating some original features including windows and doors. Specific detailing including sash style arched windows were secured by condition. It appears therefore that the scheme represented an enhancement of the conservation area in respect of the windows and doors. It is not therefore directly comparable to the appeal scheme.
11. Furthermore, allowing a large development in a conservation area does not justify allowing a smaller scheme if that would itself result in harm. Each development must be determined on its own merits, in accordance with the development plan unless material considerations indicate otherwise. The Council assessed the appeal scheme against relevant local and national policies and other material considerations. It explained and substantiated its decision. Given my decision on the appeal, it is evident that this was not a scheme which should clearly have been permitted, having regard to local and national policy and other material considerations, including other examples in the area and the benefits of the scheme. Therefore, I find no unreasonable behaviour in this respect.
12. Accordingly, the Council's decision was not inconsistent, disproportionate or unjustified. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L McKay

INSPECTOR