



Costs Decision

Site visit made on 16 September 2025

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th October 2025

Costs application in relation to Appeal Ref: APP/K0235/W/25/3369426

44 Brabazon Close, Shortstown, Bedford MK42 0FF

- 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 David Pullen for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for change of use of part of the land from amenity land to private garden. Installation of new 6ft (1.83m) side and rear fence to the property boundary. To be made from feather edge boards and cant rails.
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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. Paragraph 047¹ of the PPG provides examples of behaviours which may give rise to a procedural award of costs against a local planning authority, including lack of co-operation with the other party or parties, and paragraph 049² sets out behaviours which may give rise to a substantive award of costs, including not determining similar cases in a consistent manner.
4. The applicant alleges the Council failed to co-operate on grounds of whether opportunity was provided to amend or withdraw the scheme, and whether reasonable adjustments were made in accordance with the 'public sector equality duty' (PSED) as set out at s149(1) of the Equality Act 2010. In addition, the applicant alleges the Council did not determine the proposal in a consistent manner with other similar cases.
5. Submission of the planning application was prompted by an enforcement complaint regarding the fence which had been constructed. As part of the Council's Enforcement Investigation, the Council gave the applicant opportunity to seek to regularise the development through submission of a planning application and provided additional guidance on information required.

¹ Reference ID: 16-047-20140306

² Reference ID: 16-049-20140306

6. The applicant did not utilise the Council's pre-application advice service and did not seek engagement with the Council prior to submitting the application. The Council determined the planning application within the agreed timescales.
7. The Council's procedural note, *Negotiating Amendments to Submitted Planning Applications March 2022*, sets out when the Council will seek to negotiate and accept amended submissions. The Council indicate that it considered the proposal to fall under 'category 2', meaning that substantial amendments would need to be made before the application could be determined favourably, and therefore issues could not be resolved through negotiation of amended submissions.
8. The officer report suggests a smaller extension of the residential curtilage may be acceptable. However, this would require significant changes to the site layout which would not be considered a minor amendment. Furthermore, the procedural note indicates that if there has been no pre-application advice and issues could reasonably have been identified before submission, the Council will normally refuse the proposal without negotiation. Therefore, the evidence before me does not suggest the Council acted contrary to its guidance.
9. The Council's Enforcement Officer directed the applicant to a similar proposal, which at the time had not been determined. The correspondence suggests the officer directed the applicant to the proposal to assist in compiling the application, rather than passing any particular judgement on the planning merits of the scheme which differed in scale from the appeal proposal.
10. The applicant indicates that, as a person with dyslexia, they were disadvantaged in the planning process. The evidence before me suggests the Council tailored its communication to meet the applicant's individual needs. For example, the Council's Enforcement Officer met the applicant on site to discuss the scheme face-to-face and offered to discuss matters over the phone, if preferred. The officer also advised the applicant seek independent planning advice.
11. Therefore, I am satisfied that the Council cooperated with the applicant and made reasonable adjustments in its service provision, thereby satisfying the requirements of the PSED.
12. The parties have identified examples of cases of proposals for development of a similar type, of which some have been granted planning permission³, and others have been refused planning permission and/or dismissed at appeal⁴.
13. However, each application must be determined in accordance with the development plan, unless material considerations indicate otherwise. This inherently requires each application be determined on its individual merits and taking into account its context, such as characteristics of the built environment. Furthermore, such proposals require the decision-maker exercise judgement in assessing the impacts of proposal.
14. Whilst the cited examples have received differing decision outcomes, and likewise in my decision I have reached a different conclusion to the Council, this does not demonstrate inconsistency in the decision-making process.

³ E.g. LPA ref: 11 Tollgate Close (ref. 24/01332/S73A)

⁴ E.g. appeal decision ref: APP/K0235/W/21/3269151

15. The applicant invested a considerable amount of their own time in pursuing the appeal. However, no evidence has been provided of any direct financial expense incurred. The applicant raised concerns regarding the prospect of future costs arising through pursuing future proposals. Since I have allowed the appeal, planning permission is granted, and no further action is necessary.
16. As set out above, I am satisfied the Council cooperated adequately with the applicant, including making reasonable adjustments, and was not inconsistent in its determination. No evidence of financial expense incurred has been provided. I have had regard to the requirements of s149 of the PSED to eliminate discrimination and advance the equality of opportunity, and do not consider the applicants rights would be offended by my conclusions.
17. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a full or partial award of costs is not warranted.

E Dade

INSPECTOR