
Costs Decision

Site visit made on 6 October 2025

by **Mark Harbottle BSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2025

Costs application in relation to Appeal Ref: APP/M2270/X/24/3344565

31 Eridge Road, Royal Tunbridge Wells, Kent TN4 8HR

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Cox (the applicants) for a full award of costs against Tunbridge Wells Borough Council (the respondent).
 - The appeal was against the refusal of the Council to issue a certificate of lawful use or development (LDC) for the siting of caravan in the garden for ancillary use to the main residential dwelling.
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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 applicants contend that the respondent acted unreasonably by taking matters that were not material to an LDC application into account.
4. The respondent's 3rd reason for refusal appears to have been influenced by 2 enforcement appeal decisions. Only one of them, concerning the erection/siting of 4 buildings, was provided to me. Unlike in that appeal, the appellants do not claim that the structure has planning permission as a building incidental to the enjoyment of a dwellinghouse.
5. As recorded in the Main Decision, I agree that this matter did not fall to be considered. However, the respondent felt it was prudent and best practice to consider whether the structure might be lawful by other means and, had that been found, it is fair to say that it could have been to the appellants' advantage.
6. Nevertheless, the respondent took a matter that was not material to the application into account, and the appellants incurred expenditure addressing the reason for refusal in paragraphs 4.35 to 4.37 of their grounds of appeal.
7. The respondent formed the view that the structure would not be designed or adapted for human habitation, and therefore not a caravan, in paragraphs 29 to 39 of the officer report. While information from the manufacturer's web site was also considered, it did not tip the balance, and I am satisfied the respondent would have reached the same conclusion without it.

8. The respondent also took the view that, once sited on the land, the structure would not be moved by means readily available to a typical household, such as by car, van or domestic trailer. However, that view was expressed in the context of the 'size' test for a building, not the 'mobility test' for a caravan. The applicants' criticism of this aspect of the respondent's assessment is therefore misplaced.
9. Finally, the officer report took account of the proposed location of the structure when considering it against the tests for a building. For the reasons given in the report, I can see that this would influence how the structure is perceived, but it would be wrong to reach a view on the size of the structure according to where it is, rather than what it is. However, the relative sizes of the structure and the front garden are germane to the question of whether future movement of the structure is likely, so I do not find this to have been unreasonable behaviour.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred, but only in respect of the matter addressed in paragraphs 4.35 to 4.37 of the applicants' grounds of appeal. A partial award of costs is therefore warranted.

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 Tunbridge Wells Borough Council shall pay to Mr and Mrs Cox the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the matter addressed in paragraphs 4.35 to 4.37 of their grounds of appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicants are now invited to submit to Tunbridge Wells 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.

Mark Harbottle

INSPECTOR