
Costs Decision

Site visit made on 9 December 2025

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15th January 2026

Costs application in relation to Appeal Ref: APP/K2230/D/25/3375413

16 Old Road West, Gravesend, DA11 0LJ

- 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 John Fahey for a full award of costs against Gravesham Borough Council.
 - The appeal was against the refusal of planning permission for formation of vehicular access on to B261 and provision of one off-street parking space in front garden with associated hardstanding.
-

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 appellant claims that the Council behaved unreasonably by preventing development which clearly should have been permitted, failed to produce evidence to substantiate each reason for refusal and refused the application, even though a similar scheme was allowed at appeal at 20 Old Road West (No. 20) in 2024¹. These are examples of unreasonable behaviour which the PPG says will place an authority at risk of an award of costs.

Reason for refusal 1 – Character and appearance

4. The Council relied on several appeal decisions dismissed at the appeal site and the neighbouring properties to inform their reasoning. However, these decisions are not recent, and there are some fundamental differences, as set out in my main decision. It is a matter of planning judgement how much weight should be given to previous appeal decisions. Notwithstanding this, the appeal site is within the same local context as No. 20, and the proposal is for very similar works. The Inspector in the appeal at No. 20 concluded that the development would not have an adverse effect on the character and appearance of the area.
5. The Council has provided no clear reasoning as to how the proposal differs from the approved development at No. 20 and why this led them to reach a different conclusion from the previous Inspector. In its costs rebuttal, the Council expresses dissatisfaction with the Inspector's decision at No. 20, considering it to be

¹ Appeal Ref: APP/K2230/D/24/3349193

contradictory to another dismissed appeal nearby. This is not referenced in the Delegated Report and introducing it now to justify their conclusion is unreasonable.

6. There is less than one year between the appeal decision at No. 20 and the Council's decision at the appeal site. The Council has not pointed to any change in relevant policy to explain why a different conclusion has been reached from the Inspector in the appeal decision at No. 20. The Council has therefore persisted in objecting to a scheme which an Inspector has previously indicated to be acceptable, which amounts to unreasonable behaviour.
7. While previous appeal decisions are material considerations, the Council must still assess the proposal and the specific circumstances of the appeal site. However, the Delegated Report contains little analysis of the proposal itself or its actual harm to the character and appearance of the area. Instead of providing an objective assessment, the Council focuses largely on the alleged harm arising from the approved scheme at No. 20.
8. The reason for refusal is precise and clearly sets out the relevant development plan policies. However, the Council has not put forward a robust explanation to substantiate this reason for refusal and has therefore acted unreasonably.

Reason for refusal 2 – Highway safety

9. To support their reasoning on this matter, the Council refer to traffic levels across Kent, data showing schools in the area and their proximity to the appeal site, crash map data and their findings from a site visit. However, much of this evidence is contextual. The Council appear to give great weight to the previous appeal decisions, which were dismissed on highway safety grounds, even though there are some differences from the appeal proposal.
10. In the appeal decision at No. 20, which is very similar to the proposal, the Inspector concluded that such development would not cause an adverse effect on highway safety. In the Delegated Report when considering highway safety, the Council refers to the approved development at No. 20 only to highlight its considered poor visibility. No explanation is provided within the Delegated Report to understand why the appeal site warranted a different highway safety conclusion from the Inspector's findings at No. 20, despite the Inspector having considered restricted visibility and nearby accesses. The Council also states in its costs rebuttal that the proposal is largely similar to No. 20's in design and visibility. The Council has therefore acted unreasonably by persisting in objecting to a scheme which an Inspector has previously indicated to be acceptable.

Conclusion

11. For the reasons set out, I conclude that the Council has acted unreasonably. This has resulted in unnecessary expense for the claimant, as described in the PPG, in making the appeal. A full award of costs is therefore justified.

Costs Order

12. 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 Gravesham Borough Council shall pay to Mr John Fahey, 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.

13. The applicant is now invited to submit to Gravesham 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.

L Reid

INSPECTOR