



Costs Decision

Site visit made on 18 November 2025

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2026

Costs application in relation to Appeal Ref: APP/H2265/W/25/3371765

Barn to the west of Mill Lane, north of 39-45 Mill Lane, Mill Farm, Waterringbury, Kent, ME18 5PE

- 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 and Mrs Lamb for a full award of costs against Tonbridge and Malling Borough Council.
 - The appeal was against the refusal to grant approval for the change of use of existing agricultural building to single residential dwellinghouse (Use Class C3) and land to residential curtilage, together with building operations reasonably necessary to convert the building.
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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 local planning authority behaved unreasonably in refusing the prior approval application by applying the amended Class Q floor space limit, notwithstanding that the application fell within the transitional period provided by Article 10 of the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024. They argue that, without this error, prior approval would have been granted and no appeal would have been required.
4. The Council accepts that the transitional provisions were not recognised or applied when determining the application and that this amounted to an error. However, the Council contends that a costs award is not justified, arguing that it did not act unreasonably during the appeal process itself, and that the applicants' submissions largely replicated the material before the Council at the application stage.
5. The Council's error in this case was not a matter of planning judgement, nor a reasonable difference of interpretation. It involved the failure to apply a clear and directly relevant legislative provision governing the determination of the prior approval application. The Council has acknowledged that the application should have been determined under the previous Class Q provisions and that, under those provisions, the proposal would not have conflicted with the applicable floor space limit.

6. This amounts to unreasonable behaviour of a substantive nature, as defined in the PPG. The applicants were therefore put to the expense of preparing and pursuing an appeal that should not have been necessary. This constitutes unnecessary and wasted expense in the appeal process.
7. I am satisfied that the appeal submissions, including the preparation of statements, evidence and associated professional input, flowed directly from the Council's unreasonable refusal. The entirety of the appeal was necessitated by that refusal. That being so, a full award is justified.
8. 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

9. 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 Tonbridge and Malling Borough Council shall pay to Mr and Mrs Lamb, 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 Tonbridge and Malling 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.

Thomas Courtney

INSPECTOR