



Costs Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2026

Costs application in relation to Appeal Ref: APP/J1535/X/24/3356423

Firs House, Moreton Road, Bobbingworth, Ongar CM5 0LU

- 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 T Martin for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of an application for an LDC for construction of swimming pool building with gym and plant room.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Preliminary matter

2. The Council did not respond to the application for costs. The application will therefore be determined with regard only to the submissions made by the Appellant.

Reasons

3. 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.
4. The PPG, at paragraph 049 of the section on 'Appeals', sets out types of behaviour which may give rise to a substantive award of costs against the Council. These include 'failure to provide evidence to substantiate each reason for refusal' and 'acting contrary to, or not following, well-established case law'. The Council did not submit an appeal statement and have not provided any evidence to substantiate their reason for refusal of the application. They rely on an 'Application Checklist' which does not include any assessment of the proposed development and simply states a conclusion which is repeated as the reason for refusal.
5. *Emin v SSE [1989] JPL909* is well-established case law when considering Class E proposed buildings and does not indicate that the scale and mass of such a building is the only consideration when assessing a proposal for purposes incidental to the main dwelling. The Council acted contrary to this legal principle by stating, without any explanation, that "The proposed outbuilding is of a scale and mass that contradicts the provisions of the class for building proposals that are incidental to the main dwelling".
6. The Council has acted unreasonably by failing to substantiate the reason for refusal of the application and by acting contrary to well-established case law, and the Appellant has incurred unnecessary expense in the appeal process. The application succeeds and a full award of costs is justified.

Costs Order

7. 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 Epping Forest District Council shall pay to Mr T Martin, 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.

8. The applicant is now invited to submit to Epping Forest District 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.

John Braithwaite

Inspector