



Costs Decision

Site visit made on 21 January 2026

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2026

Costs application in relation to Appeal Ref: APP/J1535/W/25/3374583

Hillside, Vicarage Lane, Chigwell, Essex IG7 6LZ

- 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 & Mrs Chand for a full award of costs against Epping Forest District Council.
 - The appeal was against the refusal of planning permission for the demolition of existing house including outbuildings and garage to be replaced by a single-family dwelling (incorporating existing outbuildings), together with associated single storey garage with attached annex and landscaping.
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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. The application essentially relies on three main factors. Firstly, the fact that the applicant does not think that the Council have taken adequate account of the legal fallback position and have inappropriately referenced the very special circumstances test where it is not appropriate and have been inconsistent both in terms of their pre-application advice and in relation to other cases in the district.
4. Secondly, the applicant considers that in relation to design and appearance the Council have applied an entirely subjective assessment based on a contradictory assessment of the character of the locality and the surrounding area. Finally, they do not agree that the impact on neighbour amenity is a matter of judgement, they highlight that the Council failed to identify any concerns at the pre-application stage and if they had the applicant could have provided appropriate technical reports.
5. In relation to Green Belt matters, as can be seen from my appeal decision it has been necessary to consider whether very special circumstances apply in this case. Consequently, it is not unreasonable for the Council to have also done so. Clearly, I have reached a different view on the weight that should be given to the fallback position. However, as noted in my decision whether or not the applicant would have implemented the commenced extension was a matter of planning judgement.
6. The Council have set out why in their view the applicant would not implement that scheme. They have also ascribed weight to that matter on the basis of that finding.

According to case law¹, when considering a potential fallback position, it is necessary for the decision maker to consider whether there is a greater than theoretical possibility that the development might take place (the real prospect test) and if there is, what weight should be ascribed. While ultimately, I do not agree with the Council's position and I have given significant weight to the fallback position when considering the overall planning balance, the Council's approach is not unreasonable as they have followed a similar approach albeit reaching a different view.

7. The impact of a proposal on the Green Belt is very site specific, particularly where there is a need to compare it to a fallback position. The fact that the Council has reached a different position on different sites within the district does not provide a compelling case that they have acted unreasonably.
8. It is of course disappointing for the applicant if the pre-application position set out by the Council appeared to reach a different conclusion than their ultimate position when deciding the application. However, the proposal considered was materially different from the ultimate scheme and although I accept that any changes were intended to address the officer's observations in the pre-application advice, that advice makes it clear that it is given for advisory purposes, no consultation has been carried out and it is not binding on the Council when assessing the merits of any planning application. Overall, this matter does not result in unreasonable behaviour.
9. In relation to the effect of the proposal on the character and appearance of the area and on the living conditions of neighbours, these are matters of planning judgement. The delegated report and the Council's appeal statement make a sufficient case to support the Council's view on both issues. Their judgement is supported by specific references to policies of the development plan. I am not persuaded that the Council has adopted an unreasonably inconsistent approach in relation to how they have considered the impact of the proposal on the character and appearance of the area.
10. Further, I do not agree that whether or not a particular proposal will harm the living conditions of a neighbour is purely a technical matter even if it does involve concerns about noise and disturbance and light pollution. As outlined, this is a matter of planning judgement and the Council's position is a reasonable one.
11. In my judgement, when considered in the round, the Council's case was sufficient to raise concerns about the impact of the proposal on the Green Belt, the character and appearance of the area and on the living conditions of neighbours. Overall, I do not consider that the Council has acted in such a way that it should be considered to be unreasonable behaviour that has led to unnecessary or wasted expense in the appeal process.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR

¹ Gambone v Secretary of State for Communities and Local Government v Wolverhampton City Council [2014] EWHC 952 (Admin)