



Costs Decision

Site visit made on 30 March 2026

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2026

Costs application in relation to Appeal Ref: APP/K2230/C/24/3353751

29C Damigos Road, Gravesend, Kent DA12 2LR

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Dorcas Benedict for a full award of costs against Gravesham Borough Council.
 - The appeal was against an enforcement notice alleging the material change of use of the detached garage on the Property from a garage to residential use.
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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 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 applicant claims the Council was warned that its notice was 'bad' at the outset, when its inspections had found the front elevation garage doors had been replaced with windows as permitted by planning permission reference 20210721. It is suggested the notice was issued based upon a fear that the former garage was being, or to be, used as an independent dwellinghouse when there was no evidence to support that, and that rather than serving a Planning Contravention Notice (PCN) or inviting a planning application it issued the enforcement notice, contrary to its Planning Enforcement Strategy (2022) (PES), and should have withdrawn the notice once the appeal had been submitted.
4. The Council claims the use of the garage was restricted by condition and that accordingly, any change of use would have required planning permission. It claims it pro-actively engaged with the applicant by email dated 9 March 2023 asking the appellant to undertake remedial works, and then notified the applicant of its intention to consider taking formal enforcement action by letter dated 11 July 2023 as those remedial works had not been undertaken. It is also claimed that the Council has not suggested that the garage has been converted into a separate single family dwelling, but that instead it has referred to the garage as an annex to the original dwelling.
5. As set out in my appeal decision, the Council's case is confused and the description of the alleged breach of planning control was incorrect. It remains unclear, on the Council's submissions, what breach of planning control it intended to enforce against, and I have been unable to correct the notice without causing injustice. It is not the case that any change of use of the garage would require

planning permission as the condition referred to merely requires the building to be kept available for the parking, turning and manoeuvring of vehicles, and the Council had since granted planning permission for conversion works to the building which included the blocking up of the garage doors.

6. At the very least, it should have been obvious to the Council on receiving the applicant's Grounds of Appeal that the description of the alleged breach was incorrect, as the garage had a lawful use for residential purposes incidental / ancillary to the dwelling. If the Council intended to allege that a material change of use to some other residential use which was not incidental or ancillary to the dwelling, then the notice should have stated this from the outset. In addition, or the alternative, if it was being claimed that there had been a breach of condition 11 attached to planning permission reference 20010099 or any condition attached to planning permission reference 19990168, the notice could have also stated this.
7. The Council did not issue a PCN prior to considering the expediency of formal enforcement action, and this may have helped it describe any alleged breach of planning control in a more appropriate manner. Although the PES outlines that a retrospective application for planning permission may be invited in some cases where appropriate, it was not unreasonable for the Council to proceed to consider the expediency of taking enforcement action after its email and letter referred to above, where it considered a breach of planning control had taken place.
8. However, I find that the Council's decision to issue the notice as it did, referring to an alleged breach which would not ordinarily constitute development requiring planning permission, and its failure to submit a coherent case in support of the notice on grounds (b) and (c) in particular, constituted unreasonable behaviour. That unreasonable behaviour has resulted in the applicant incurring unnecessary and wasted costs in pursuing the appeal, when it should have been clear to the Council that the notice was seriously flawed and invalid when reading their Grounds of Appeal, if not prior to issuing the notice.
9. 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

10. 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 Ms Dorcas Benedict, 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.
11. 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 Douglas

INSPECTOR