



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: 24th April 2026

Costs application in relation to Appeal Ref: APP/U2235/D/25/3363025

3-5 Bower Place, Maidstone ME16 8BG

- 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 T Salami for a partial award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for 'Roof alterations, including rear dormer (retrospective)'.
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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. A partial award of costs is sought in respect of the Council's reasons for refusing planning permission referring to matters which were not mentioned in a previous refusal of planning permission for similar development. In particular, the decision notice refers to a claimed loss of privacy, the effect of a hard-surfaced area on the character and appearance of the area, and a failure to demonstrate parking standards would be met. It is claimed that the Council did not therefore determine the application the subject of the appeal in a consistent manner.
4. The Council has claimed that overlooking was previously considered, but weight was given to a fallback position where similar overlooking would have been likely from a rear dormer which did not require express planning permission. When determining the application the subject of this appeal, the Council claims it had been established that the development could not be constructed as 'permitted development', and no weight was therefore given to such fallback position. It is also claimed that as a former front garden had been hard-surfaced to create a parking area since the previous application was considered, there had been a change in circumstances to be considered. It is claimed reference to a failure to demonstrate parking standards would be met related to the wider issue of visual harm and followed a recent change in parking standards.
5. The Council's Planning Committee was entitled to introduce additional reasons for refusing the planning application as circumstances had changed since the previous planning application had been refused. Moreover, failure to refer to any harm when refusing to grant planning permission for the previous proposal would not prevent

the Council from identifying any harm which was previously missed, provided it was adequately explained.

6. Although I have found that the development does not cause unacceptable harm to the living conditions of neighbouring residents by way of loss of privacy, concerns relating to overlooking were valid because there has been a moderate loss of privacy. Furthermore, the Council was entitled to reach a different view on a potential permitted development fallback position when this has not been sufficiently demonstrated by the appellant. It was not therefore unreasonable for the Council to refer to claimed harm to the living conditions of neighbouring residents from overlooking within its reasons for refusal, despite this not being referred to in the previous refusal of planning permission.
7. The hard-surfaced area to the front of the site did not form part of the application for planning permission. Although this does not form the only reason for the Council alleging harm to the character and appearance of the area, it was unreasonable for the Council to refer to it as part of the justification for the second reason for refusal as it was unconnected to the roof alterations.
8. The Kent County Council Parking Standards (2025) state that the provision of parking is to be determined on an individual basis for Houses in Multiple Occupation (HMOs). The site is in use as 2 HMOs. The roof alterations have provided an additional bedroom to each dwelling, thereby increasing the capacity of the HMOs. By the time the Council was considering the application the subject of the appeal it had become clear that the site was in use as 2 HMOs, but this was not the case when it considered the previous application. I have found that the development has not brought about a fundamental change in the use of the site such that parking considerations were relevant. However, the Council was entitled to reach a different view on this matter, as it considered the additional residential accommodation provided by the development would likely result in additional people who would likely park vehicles locally. On the submissions made, it was reasonable to reach this view, even though it was not raised in the Officer's report recommending that planning permission be granted.
9. In summary, it was not unreasonable for the Council's reasons for refusal to refer to privacy concerns and a failure to demonstrate parking standards would be met. It was, however, unreasonable for those reasons to refer to a hard-surfaced area not forming part of the development for which planning permission was sought. The appellant has incurred unnecessary expense in the appeal process in addressing that part of the Council's reason for refusal at paragraphs 5.20 to 5.22 of their Statement of Case, in reading the part of the Council's Statement of Case concerning this, and in referring to this matter in their costs application. The extent of that wasted expense is therefore likely to be minimal. Nevertheless, it is wasted expense resulting from the Council's unreasonable behaviour.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the claimed effect of the hard-surfaced area on the character and appearance of the area and a partial award of costs is therefore warranted.

Costs Order

11. 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 Maidstone Borough Council shall pay to Mr T Salami, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the claimed effect of the hard-surfacing to the front of the site on the character and appearance of the area; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Maidstone 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