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## Costs Decision

Site visit made on 14 April 2026

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29<sup>th</sup> April 2026

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### **Costs application in relation to Appeal Ref: APP/R3650/W/25/3376673 Brooklands Dene Lane West, Lower Bourne, Farnham GU10 3PS**

- 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 Barry for a full award of costs against Waverley Borough Council.
  - The appeal was against the refusal of planning permission for the erection of extensions and alterations to ancillary outbuilding including installation of PV panels and rooflights to provide a dwelling; installation of an access gate.
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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 application is made on substantive grounds in that the Council prevented development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. Regarding the first main issue of whether the proposal would be inappropriate development, the Council failed to assess the proposal against all relevant Green Belt exceptions within National Policy, specifically Paragraph 155 of the National Planning Policy Framework relating to grey belt land. This was despite the applicant identifying this as a possible exception within the Design and Access statement submitted as part of the original application. I consider the complete lack of analysis by the Council on the grey belt issue to constitute unreasonable behaviour which has resulted in the appellant having to prepare evidence which may not otherwise have been necessary.
5. On the second main issue, the Council contended that the application had failed to meet the definition of self-build and custom housebuilding under the Self-build and Custom Housebuilding Act 2015 (as amended). The Council claimed that a lack of supporting evidence to verify the claim and an absence of a legally binding mechanism to secure the dwelling as self-build meant that development was not exempt from Biodiversity Net Gain requirements (BNG). However, contrary to the assertions within the Officer Report, the submitted Design and Access statement set out that the intended occupiers would be the current owners of Brookland, who were seeking to downsize.

6. Whilst the Council appear to have overlooked the information within the Design and Access statement, nevertheless, a legal agreement to secure the dwelling as self-build was not submitted at the application stage.
7. I acknowledge that in the extant scheme, the Council deemed a condition acceptable to secure the dwelling as self-build. This highlights an inconsistency in their approach. However, given I have taken the view in my decision that a legal agreement, rather than a condition, is required to secure the self-build dwelling, I find the Council's conclusion that the BNG exemption criteria had not been met was not unreasonable. Consequently, on this issue, I find that unreasonable behaviour has not occurred and no unnecessary or wasted expense in the appeal process has been incurred.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in defending the first reason for refusal relating to the Green Belt and a partial 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 Waverley Borough Council shall pay to Mr Barry the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the refusal reason relating to the Green Belt; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Waverley 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.

*T Bennett*

INSPECTOR