
Costs Decision

Site visit made on 22 April 2026

by **Chris Preston BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th May 2026

Costs application in relation to Appeal Ref: APP/K0235/X/24/3336965

The Mansion House, Northampton Road, Bromham, BEDFORD, MK43 8HQ

- 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 P Garcha for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of an application for a certificate of lawful use or development for confirmation that it would be lawful to use the outbuilding approved under planning permission 20/00012/FUL to provide residential accommodation within Use Class C3, as an annex, ancillary to Parklands Mansion House.
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Decision

1. The application for an award of costs is refused.

Summary of the Application and the Council's Response

2. The application, the Council's response and the final reply of the applicant were submitted in writing. As the cases will be familiar to the parties, the following is a brief summary of the main points.

The Submissions of the Applicant

3. Paragraph 049 of the Planning Practice Guidance (PPG) states that Local Planning Authorities are at risk of an award of costs on substantive grounds if they act contrary to, or not following, well-established case law and if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The Council failed to have regard to established case law, namely, Uttlesford District Council versus The Secretary of state for the Environment & White (1991), which is the most directly relevant caselaw in terms of the way in which annexe proposals should be considered in law. The officer report makes no mention of the case, despite it being raised by the appellant. That was an unreasonable omission and the Council's assessment of the proposal as an independent dwellinghouse led to the need to submit the appeal.
5. The Council failed to take account of similar appeal decisions, including the Ampthill Road decision which was allowed, with costs awarded against the Council. Overall, the Council's decision was unreasonable and that led to unnecessary of wasted expense. Even if the appeal is dismissed for some other reason, the way in which the Council addressed the issue led to the need to submit unnecessary evidence in the appeal which would still justify an award of costs.
6. The Council also state that condition 5 is not yet applicable because the building has not been completed. The application was for a Lawful Development Certificate

to confirm that the proposed annexe use would comply with condition 5. The fact that the building is not yet completed is irrelevant.

Response of the Council

7. The Council are not required to explicitly address every legal case in the assessment of the application only those which they consider to be most relevant in determining the application. In this case, whilst the Council gave consideration to all relevant case law which included Uttlesford the officer report has explicitly referenced an appeal case of *Bassett v West Devon BC*, [2004] P.A.D. 14 (2003) as well as other relevant supporting appeal decisions. That case was more akin to the proposal in question.
8. The appeal case referred to in Bedford was materially different, being a planning application for a granny annex. Whilst the Council did not refer to case law specifically in the Officer Report, the Officer did identify matters pertinent to the identification of the planning unit and the planning status of the annex in terms of functionality and separation distance.
9. The appellant outlines that the 'purpose of the LDC application was simply to confirm' that the proposal would comply with condition 5 of planning permission 20/00012/FUL. As explained above and in the Council's Statement, this was not a simple matter. The Council did not fail to have regard to a condition imposed on 20/00012/FUL; however, this condition is not currently applicable as the building is not yet completed. The proposal was not described clearly and no proposed plans were submitted. It would not have been possible, therefore, for the Council to have issued a Certificate. Consequently, the appeal could not have been avoided.

Reasons

10. Parties in planning appeals normally meet their own expenses. However, the 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.
11. Given that the issues have been fully set out within my associated decision I can address the costs application relatively briefly. There were numerous reasons why I considered that a certificate of lawfulness for the proposed use should not be granted. Firstly, due to the fact that the building in question has not yet been erected. That is not an irrelevant point, as suggested by the applicant but is of importance given the way s192 of the Town and Country Planning Act 1990 is structured.
12. At the date of the application, which is the relevant date, it would not have been possible to use the building as a residential annex because it didn't exist.
13. Secondly, I am not satisfied that either party fully grappled with the wording of condition 5 in respect of the meaning of the word "ancillary". Regardless of whether the proposed use would involve the creation of a new planning unit and material change of use, the accommodation proposed would not be ancillary to the use of the dwelling but would effectively be part and parcel of the primary accommodation. It would not comply with the requirements of condition 5 in that respect.

14. The Uttlesford judgement did not set a general precedent that any annex with its own facilities would not result in a new planning unit or material change of use. Cases such as this are always very specific to the facts, not only in terms of how the building relates to the main dwelling, whether there would be any physical separation etc but also how it would be occupied, by whom and how they would interact with those in the existing dwelling.
15. Consequently, the Council was not unreasonable in how it assessed the application. The officer report did not refer to caselaw directly but the key principles were evident. Simply because the appellant stated that it would be used in a manner that would not result in the formation of a separate dwellinghouse does not make it so. Little information was provided, beyond stating that the appellant's son and his wife would reside in the building. There was little information on their circumstances or much to indicate how they would interact with those in the main dwelling.
16. The Council did focus primarily on the distance from the house. That may not always be decisive but having regard to the lack of a detailed layout plan and the limited information in respect of the way the occupant would link to activity in the main dwelling, its conclusion that the use would lead to an independent dwelling was not unreasonable.
17. For example, the officer report clearly refers to a lack of information as to how the occupants would have any reliance on the main dwelling and considers the degree of separation and surrounding landscaping. Those factors are clearly relevant to the assessment of whether the dwelling would be occupied in an independent manner. The report does fall into the trap of suggesting that the curtilage could easily be divided in future which is not what was proposed.
18. However, overall, the onus rests with an applicant to make their case in such matters and the Council was well within its rights to refuse the application on the basis of the limited information provided. It is not clear that any of the other cases referred to are directly comparable in my view, not least in the individual circumstances of the occupants which is a key factor.
19. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Chris Preston

INSPECTOR