



Costs Decision

Site visit made on 19 May 2026

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2026

Costs application in relation to Appeal Ref: APP/Y3940/X/24/3356052

Land off Kingsdown Road, Kingsdown, Corsham, Wiltshire

- 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 Michael Clarke for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of a certificate of lawful use or development for a dwellinghouse including garden.
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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 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. As set out in my main decision, this case turned on the application of *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307 to the facts of the case. In support of its contention that the appeal building should not be considered a dwellinghouse, the Council identified the Judge's commentary that a situation where a wooden shed consisting of an office, w.c. and washbasin could not be turned in a dwelling by the placing of furniture in it.
4. There are parallels between this scenario and the appeal site because the majority of items in the appeal building are free-standing and the former stable construction is still evident. There is also an appeal decision at Waycotts Orchard, Buckfastleigh, where the Inspector found, in applying *Gravesham*, a building that had been capable of supporting that appellant's low-key day to day private domestic existence was not a dwelling house.
5. I found differences between both of the above scenarios and the appeal site, and ultimately concluded that the facts of the present case are such that the appeal building is a dwelling house. Nevertheless, the examples are a clear indication that the facts of each case must be carefully considered within the general principle that the distinctive characteristic of a dwelling house is a building with an ability to afford those who use it the facilities required for day-to-day private domestic existence: The mere presence of basic facilities is not necessarily sufficient.
6. The Council did not take legal advice on the application of the facts in the present case. However, I see no particular indication that the officers determining the application did not understand, interpret and apply the relevant test to the case.

The reasons for the Council's decision have been set out in evidence and it was a decision that they were entitled to come to within the guidelines established by the most relevant judgement, read as a whole. The approach has not been shown to have been wrong in law.

7. The appellant made repeated requests for the Council to clearly set out its full position earlier. I also note that the appellant may have been told early on in the process that an application and appeal had little chance of success. From that, and given the appellant's repeated request that he may be allowed to address any outstanding concerns, it is understandable that the appellant may have felt that the Council did not have a particularly open mind and were not open to discussion.
8. Nevertheless, in response to the appellant's case, the Council has maintained its position. That is indicative that the appeal would not have been avoided, even if the appellant had been given an earlier opportunity to point out differences between the site and the *Buckfastleigh* case. Full, early disclosure of the Council's position may have been desirable to the appellant and aided discussion. However, I do not find that a failure to do so was unreasonable, given that its case was ultimately substantiated with reference to other decisions that are clearly relevant, if not directly comparable.
9. The Council's position is somewhat less clear in terms of its acceptance, or not, of the appellant's occupation of the dwelling house for 4 years. It is unclear whether it contends that doubt is cast over the appellant's version of events, or simply that the evidence is not sufficiently precise or unambiguous. Nevertheless, this appears as a minor part of the Council's case and it has not been shown that the appellant has had to deal with an unavoidable appeal and associated costs, or been put to any particular additional expense dealing with it, when the main thrust of both parties' cases is the application of *Gravesham*.
10. I, therefore, find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Bale

INSPECTOR