

Costs Decision

Site visit made on 22 August 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

Costs application relating to Appeal Ref: APP/T0355/X/16/3142500 132 Vansittart Road, Windsor SL4 5DQ

- The application is made by Luisa Lee under the Town and Country Planning Act 1990, sections 195 and 322 and Schedule 6, and the Local Government Act 1972, section 250(5), for a full award of costs against the Council of the Royal Borough of Windsor & Maidenhead.
 - The appeal was against the refusal to grant a lawful development certificate for "Conversion of loft into habitable accommodation with the construction of 2 dormers and installation of 3 rooflights".
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Decision

1. The application is refused.

Reasons for the decision

2. The Government's Planning Policy Guidance ("the Guidance") indicates that the parties to an appeal are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, the party may be subject to an award of costs.
 3. The applicant maintains that the Council behaved unreasonably in failing to apply the provisions of the permitted development order correctly and in ignoring or disregarding Technical Guidance and other planning authority and appeal decisions. The provisions referred to are the householder permitted development rights, Classes A and B. The costs application does not identify the Technical Guidance in question. The other decisions referred to are the ones that were drawn to the Council's attention by the applicant.
 4. In their response to the costs application, the Council maintain that they acted reasonably in assessing the proposals under Class A, because part of the development would extend beyond the rear wall of the house. In support of their case, they quote from Government Technical Guidance that was extant at the time of the decision.
 5. After a detailed consideration of how the terms of the order applied to the proposals, I came to the view in the appeal decision that the proposals were not permitted development. I found the Council's decision to refuse the application to be well-founded, although the reasons given were flawed since they were based on Class A. I also found the argument that the proposals were
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permitted by Class B to be flawed, since it did not accurately reflect the amendments that were made to Class B in 2014. Part of my reasoning was based on the fact that development would extend beyond the rear wall of the house. I found that none of the other decisions were relevant, since they were all decided before the amendments were made.

6. The provisions of Classes A and B are complex and determining whether or not proposals comply with them is not easy at times, as my appeal decision shows. I do not consider that, in the circumstances of this appeal, the Council acted unreasonably in coming to a well-founded decision based on what turned out to be flawed reasons.
7. I have therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and that an award of costs is not justified.

D.A.Hainsworth

INSPECTOR