

Costs Decision

Inquiry held on 28 March 2017

Site visit made on 28 March 2017

by Paul Dignan MSc PhD

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

Decision date: 04 May 2017

Appeal Ref: APP/T0355/C/16/3150896

32 Montrose Way, Datchet, Slough, SL3 9ND.

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Council of the Royal Borough of Windsor and Maidenhead for a full award of costs against Mr Maninder Singh Viridi.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the Land from residential to a mixed use of residential and business.
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Decision

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

Reasons

2. Costs can be awarded where unreasonable behaviour leading to unnecessary or wasted expense has been demonstrated. The Government's Planning Practice Guidance advises that awards against appellants may be either procedural, in regard to behaviour in relation to completing the appeal process, or substantive, which relates to the planning merits of the appeal. In this case the Council submits that the appellant has failed to comply with the procedural requirements of the appeal process. Specifically, it argues that the failure of the appellant to provide witness proofs and a statement of common ground in advance of the Inquiry amounts to unreasonable behaviour that has led to wasted costs. Further, it argues that had professional advice been sought at the outset, it would have been clear to the appellant that there was no chance of success, and the Council would not have had to incur the costs arising from the Inquiry.
3. The appellant was not professionally represented until late in the day, but in reality nothing was raised on the day of the Inquiry that was new to the Council, and the appellant's case was at least arguable, in my view. As it turned out the appellant engaged reasonably well with the appeal process and was not uncooperative, despite failing to appreciate the value of a statement of common ground.
4. Overall, I am not persuaded that the failure of the appellant in this case to fully comply with the requirements and deadlines of the appeal process has been such that it has caused the Council unnecessary or wasted expense in the appeal process. Accordingly I conclude that an award of costs is not justified.

Paul Dignan

INSPECTOR
