
Costs Decision

Site visit made on 13 March 2018

by D H Brier BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2018

Costs application in relation to Appeal Ref: APP/X0360/C/17/3179692 Land at 128 Reading Road, Wokingham RG41 1HA

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wokingham Borough Council for a full award of costs against Mrs J Courtnage.
 - The appeal was against an enforcement notice alleging the change of use of the ground floor of a building to a self-contained flat.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Pointing to the addition of an appeal on ground (a) with no further evidence other than that put forward in support of ground (f), which was the sole ground of appeal initially, the Council contend that it had no reasonable prospect of success.
4. It seems to me that the root of the matter in this instance lies in the appellant's lack of appreciation of the limited scope of the deemed application and the appeals on grounds (a) and (f). These focus upon the terms of the enforcement notice as opposed to another matter, namely the merits of reconfiguring all the living accommodation in the appeal building, something that appears to form the nub of the appellant's case. I am mindful that the appellant has been professionally represented throughout, but noting that her agent is neither a qualified planner nor a lawyer, it seems to me that the apparent misunderstandings are probably down to unfamiliarity with the intricacies of the enforcement provisions of the 1990 Act. This is not a matter I equate with unreasonableness on the part of the appellant.
5. As regards ground (a) specifically, the absence of a case in support of it is somewhat unusual. However, while this may even represent a lost opportunity as far as the appellant is concerned, I would have expected the Council to provide a justification of why it was deemed expedient to take enforcement regardless of the actual content – or lack of it – of the ground (a) appeal. Nor do I consider the apparent absence of a ground (a) 'case' necessarily means

that the outcome of the appeal was a foregone conclusion and there would have been no reasonable prospect of it succeeding. Although this was not the case in this instance, the possibility that the Council's stance could have been found wanting cannot be discounted. In these circumstances, I am not satisfied that the appellant's behaviour was unreasonable.

Overall Conclusion

6. In the light of the foregoing, I consider that unreasonable behaviour resulting in unnecessary expense has not been demonstrated, and I therefore conclude that an award of costs is not justified.

D H Brier

Inspector