
Costs Decision

Site visit made on 11 September 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2019

Costs application in relation to Appeal Ref: APP/T0355/W/19/3228145 Willows Riverside Park - The Moorings, Maidenhead Road, Windsor SL4 5TR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Bobby McGhee of Haulfryn Group Ltd for a full award of costs against Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for upgrading and renewal of existing services including replacement of existing electric hook-up and water points, replacement of existing mooring bollards with mooring rings, upgrading of black and grey water drainage system with installation of bespoke drainage system and replacement of existing storage sheds to provide for covered wheelie bin storage.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. PPG also provides examples of unreasonable behaviour by local planning authorities which include the failure to produce evidence to substantiate reasons for refusal, failing to accept officers' or statutory consultees' advice without good planning reasons and preventing or delaying development that should have been permitted.
4. I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
5. The proposal contained elements that were considered in the previous appeal¹ at the site. This included the replacement of the existing sheds with the proposed bins stores. The previous Inspector concluded that they would not be materially larger than the existing buildings they would replace and would not be inappropriate development. Previous appeal decisions are a consideration. However, there is no definition of 'materially larger' within local or national

¹ APP/T0355/W/17/3185357

- policy. The Council have made a case that the increased height of the bin stores would be sufficient to make them inappropriate development.
6. Even if the Council had not reached this finding regarding the bin stores, the application would have still been refused due to their concerns over the mooring rings. This element is different to the previous appeal. That there is a reduction in the overall number of rings is not disputed. However, the Council consider that due to their regularised appearance they would be visually detrimental. This is a subjective matter.
 7. I note reference to comments from Members during the Planning Committee meeting. However, the only evidence before me in this regard is the minutes of the meeting.
 8. While I have disagreed with the Council and found the scheme to be acceptable, in this instance they have made a case to support their decision. Consequently, I do not find that the applicant has been put to wasted expense in pursuing the appeal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Stuart Willis

INSPECTOR