
Costs Decision

Site visit made on 8 August 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2022

Costs application in relation to Appeal Ref: APP/T0355/W/21/3276376 1A Cordwallis Road, Maidenhead SL6 7DQ

- 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 Ed Sukkar on behalf of Rakkus Ltd for a full award of costs against Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal to grant prior approval for conversion with associated external works to form 4 dwellings.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Council's first reason for refusing to grant prior approval identifies conflict with paragraph M.2(1)(d) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), which relates to the provision of adequate services. It must be noted that a retail use of the appeal building, even though situated in an out-of-centre location, would be capable of contributing to the provision of adequate services. Indeed, notwithstanding the successful outcome of the prior approval appeal, the Council's first reason for refusal was supported by objective analysis and was satisfactorily substantiated.
4. The second reason for refusal identifies conflict with parts of paragraph M.1 of the GPDO, where maximum thresholds for the area of floor space changing use are set. Notwithstanding the successful outcome of the prior approval appeal, the Council substantiated its position whilst making reasonable assertions and undertaking objective analysis.
5. It has not been clearly substantiated how the Council acted contrary to well-established caselaw, nor how objections to a scheme previously indicated to be acceptable by an Inspector or the Secretary of State were persisted with. Furthermore, development was not delayed that should clearly have been granted prior approval. As such, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR