
Costs Decision

Site visit made on 30 January 2023

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Costs application in relation to Appeal Ref: APP/T0355/W/22/3296594 109 High Street, Eton, Windsor SL4 6AN

- 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 R Jagdev for a full award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for the part change of use of the ground floor from A2 (financial and professional services) to residential, part single part two storey side extension, single storey rear extension, alterations to fenestration and external alterations, following demolition of the existing single storey side and rear elements.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance 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. In this case, the appellant argues that the Council acted unreasonably in failing to substantiate its reason for refusal at appeal following the decision to refuse the application contrary to the advice of its planning officers. This led to an unnecessary appeal, wasting both time and expense in order to obtain planning permission which should have been granted by the Council.
4. The Council, acting in its role as local planning authority, is not bound to accept the advice of its officers but must provide at least some respectable evidence to substantiate the reason for refusal on appeal.
5. In this instance the Council provided little or no evidence, merely asserting that the proposal 'could' be harmful to the viability of the unit due to the overall loss of floorspace. This does not amount to a respectable, arguable case when an examination of the proposal demonstrates that the reconfiguration of the unit would result in some positive benefits to its attractiveness. For the same reason the claim that there would be conflict with relevant planning policies is based on a simplistic reading rather than an understanding and application of their actual objective.
6. The Council therefore behaved unreasonably in refusing the application without an adequate reason that could be substantiated at appeal. By delaying a

development which should clearly be permitted the Council have acted unreasonably and caused the appellant unnecessary and wasted expense in needing to pursue an appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the Royal Borough of Windsor and Maidenhead shall pay to Mr R Jagdev the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to the Council of the Royal Borough of Windsor and Maidenhead, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Reed

INSPECTOR