



Costs Decision

Site visit made on 25 July 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date 22 August 2023

Costs application in relation to

Appeal A Ref: APP/K0425/C/22/3295959

Appeal B Ref: APP/K0425/C/22/3295960

Land at 1 Marlow Road, High Wycombe, Buckinghamshire HP11 1TA

- 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 Mr Razwan Baig (Appeal A) and Mrs Sayra Baig (Appeal B) for a full award of costs against Buckinghamshire Council - West Area (Wycombe).
 - The appeal was against an enforcement notice alleging the construction of an extension to a detached outbuilding.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may 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. The applicant considers that, as planning permission¹ was subsequently granted for a revised design of the building, that the requirements of the notice were excessive. In my decision I set out my findings on ground (f) and why the requirements did not exceed what was necessary to remedy the breach of planning control.
4. The evidence before me indicates that there was no valid planning application before the Council at the time of issuing the notice showing the alternative, now approved, design. There was no obvious alternative to remedy the breach other than the requirements of the notice. As such, the Council did not act unreasonably in this regard.
5. The applicant also considers that the notice should have been withdrawn once planning permission was granted for the revised design. The notice was issued prior to the approval of the planning permission. Both main parties are satisfied that the building subject to the notice has been altered in accordance with condition 1 on the planning permission.
6. As set out in my decision, S180 of the Act states that where after the service of a copy of an enforcement notice planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission. Therefore, the

¹ 22/05835/FUL

planning permission overrides the notice to the extent that the permission authorises what is being enforced against.

7. While I note comment in relation to *R. v Secretary of State for the Environment Ex p Three Rivers DC [1983] J.P.L. 730*, there is no requirement for the Council to withdraw the notice, which related to a development that was in part different to that which they had granted planning permission for. Therefore, the Council have not been unreasonable by not withdrawing the notice.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Stuart Willis

INSPECTOR