



Costs Decision

Site visit made on 28 August 2024

by A Dawe BSc (Hons), MSc, MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2024

Costs application in relation to Appeal A Ref: APP/T0355/W/24/3338697 Brookfield Lodge , Datchet Road, Horton, Slough SL3 9PS

- 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 Daljit Bhail for a full award of costs against Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for proposed development described as Limited infill of space between existing summer house and Lodge.
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Costs application in relation to Appeal B Ref: APP/T0355/Y/24/3338701 Brookfield Lodge , Datchet Road, Horton, Slough SL3 9PS

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Daljit Bhail for a full award of costs against Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of listed building consent for proposed works described as being the same as for Appeal A.
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Decisions

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

Preliminary Matters

2. As referred to in relation to the associated appeal decisions, the descriptions of the proposed development and works in the above respective headers for Appeals A and B are taken from the original application forms. However, the descriptions in the Council's decision notices, and as set out in the appeal form, refer to the proposals as being *a single storey side extension to link the main dwelling to the Summer Room with new mansard roof providing habitable accommodation within the roofspace*. Whilst that is a more detailed description, for clarity, I noted from the submitted plans that the link referred to would consist of two floors, albeit with the first floor being contained within a mansard roof, and with that first floor and mansard roof also extending across on top of the existing summer room. I have determined the applications on that basis.
3. I have taken into account the Government's Planning Practice Guidance (PPG) in reaching my decision.
4. The Appellant's submissions make reference to costs decisions for the previous appeals relating to this site. However, a copy of those decisions has not been submitted, such that I do not know the full details of my colleague's findings. Notwithstanding that, I have determined these applications on their own merits based on all the evidence submitted.

5. The applicant raises points in the response to the Council's rebuttal to the initial costs application, claiming that the Council's Officers did not conduct internal inspections of Brookfield Lodge and the 'summer house' at its site visits for applications relating to the appeal scheme and an identical previous scheme; and claiming that the Conservation Officer's initial report, referenced in the delegated officer's report was drafted without visiting the site. These are additional points not raised in the original costs application, such that the Council has not had an opportunity to respond to them, and as such could be prejudiced were I to take them into consideration. I have therefore not taken these particular points into consideration in this costs decision.

Reasons

6. Parties in planning appeals normally meet their own expenses. However, the PPG advises that costs may be awarded against a party who has behaved unreasonably, and that this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
7. The applicant claims that the Council acted unreasonably both procedurally and substantively. Procedurally, it is claimed that the Council submitted its questionnaire late and did not identify all relevant policies of the Royal Borough of Windsor and Maidenhead Borough Local Plan (the Local Plan) or mention them all in its officer report or appeal statement of case.
8. Substantively, it is claimed that the Council refused planning permission and listed building consent without identifying all relevant local plan policies, particularly Local Plan Policy SP2, and that its assessment against the local plan is critically flawed due to this omission; it made fabrications within its Statement of Case to support its narrative; it ignored the findings of the Planning Inspectorate from the previous allowed appeal; its decision-making is inconsistent with that relating to other neighbouring properties, particularly Brookfield House; that the Council's Planning Officer and Conservation Officer did not visit Brookfield House during their site visit to assess the proposal's impact on the special interest of the listed building; and that those officers demonstrated bias and had a predisposed position to refuse the applications from the outset due to a personal dislike of the Appellant.
9. The applicant also claims that the applications have effectively been addressed through four previous planning and listed building applications and two previous appeals. Furthermore, it is claimed that the entire appeal has been a gross waste of public resources and has caused significant financial inconvenience to the appellant. Unnecessary or wasted expense is claimed to have related to drafting the appeal application, drafting the Statement of Case, cross referencing documents to identify the fabrications of the Council, collating documents and uploading these to the portal.
10. I shall come onto consideration of environmental sustainability in relation to policies SP2 and QP3 of the Local Plan. However, in respect of the remaining contents of policy QP3, together with policies of the Horton and Wraysbury Neighbourhood Plan referred to in the submissions, cited by the applicant as relevant and not addressed by the Council, as set out in my appeal decisions, these were either not specifically relevant to the issues in contention; or, in the case of policy QP3, did not particularly add anything to the heritage asset considerations under the specific policy HE1. As I have also found to be the

case, there is no substantive basis to consider that any policy compliance in respect of those issues not in contention would be anything other than a neutral factor. Whilst the Council failed to comprehensively address in its officer report, or in its appeal statement of case, all of those matters that were ultimately not in contention, their omission did not therefore affect the outcome of the application or appeal.

11. In terms of the environmental sustainability considerations, as highlighted in my appeal decisions, the intention for including solar panels and an electric car charging point was referred to in the original Design and Access Statement. However, no plan details were included, with only a cross-section of the solar panels supplied at the appeal stage. Indeed, in respect of the intended solar panels, these are not shown on the submitted proposed roof plan as might have been expected. As such, even if the Council should have taken those features into consideration in the planning balance, they could reasonably have expected more details to enable that, notwithstanding my findings on this matter in my appeal decisions.
12. As I have noted in my main appeal decisions, the proposal in this case differs from those previous schemes at the site that were also considered at appeal, which I am satisfied the Council took into account in its officer report, in noting the differences between them and the appeal scheme. In terms of any inconsistency in the Council's approach to the current scheme, compared with those previous appeal schemes and other proposals granted permission by the Council that relate more directly to the principal elevations of Brookfield House itself; as I have found in my appeal decisions relating to listed building considerations, and additionally in respect of Green Belt matters, those other proposals referred to related to different schemes and circumstances. I have no substantive evidence, based on the submissions, to indicate that the Council failed to adequately consider those other schemes or the current proposal against Local Plan or national planning policy.
13. In respect of Green Belt matters specifically, I have found in my appeal decision that the proposed development would not be inappropriate development in the Green Belt, and that there are factors concerning the Council's calculations that contribute to its figures relating to additional floorspace being greater than I have found to be the case. Notwithstanding this, the Council clearly set out the reasoning behind its calculations in its officer report and subsequent Statement of Case, relating to what is a larger proposal to those two previously considered at appeal as referred to in my appeal decisions. I have no substantive basis to find that its officers sought to fabricate or mis-represent its findings.
14. The applicant refers to the Council's officers not visiting Brookfield House during their site visit to assess the proposal's impact on the special interest of the listed building. I understand that visits were conducted in January 2024 and March 2023 respectively, in relation to applications relating to both the appeal scheme and an identical previous proposal under applications 23/00385/FULL and 23/00386/LBC. It is unclear from the submissions the extent to which viewing from Brookfield House occurred at the earlier of those site visits. It appears such viewing did not occur at the later one.
15. Every application should be treated on its own merits, including in respect of conducting site visits. Nevertheless, in this case I have no substantive evidence

to indicate that officers were not sufficiently aware of the relationship between the proposal and the existing Brookfield House, or that the relevant context had significantly changed in the intervening period of time between site visits.

16. Based on the submissions, and for the above reasons, I have no substantive evidence that officers demonstrated bias, pre-determined the applications with a closed mind, or had a predisposed position to refuse them from the outset due to a personal dislike of the Appellant.
17. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

A Dawe

INSPECTOR