



Costs Decision

Site visit made on 4 February 2025

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Costs application in relation to Appeal Ref: APP/T0355/W/24/3347128

Garage Block adjacent to The Glen, London Road, Ascot SL5 7DF

- 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 Serhiy Serdyuk (Sky S Developments) for an award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of an application for planning permission for demolition of existing garages and erection of new dwelling.
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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 costs claim is made on two grounds. Firstly, it is claimed that the Council failed to take account of the submitted Daylight and Sunlight Assessment report (DSA) in its consideration of the application. Secondly, it is stated that the Council failed to engage and communicate proactively in the preparation of a S106 Agreement as part of the appeal process.
4. Whilst the Council's Officer Report does not specifically mention the DSA, it does not necessarily follow that it was disregarded in the Council's reasoning. Nonetheless, the Council was incorrect when it stated in its Officer Report that all proposed windows would face east and west, as this does not reflect the proposed layout shown on the submitted plans. Therefore, I am not convinced that the Council's reasoning on daylight and sunlight at the application stage was based on a robust assessment of the scheme. This amounts to unreasonable behaviour that has inevitably led to uncertainty for the applicant in its preparation for the appeal.
5. However, as I have set out in my decision, the appeal process should not be used to evolve a scheme. Therefore, it was not necessary for the applicant to prepare revised plans and associated technical documents to overcome the Council's concerns, and the costs associated with the preparation of those documents were not incurred due to the Council's unreasonable behaviour. Moreover, I took account of the DAS in my own consideration of the appeal and have found that the proposal would not provide an adequate standard of accommodation. Consequently, the

Council's overall conclusion on this main issue was not flawed and an appeal would not have been avoided had it carried out its reasoning more robustly.

6. Whilst I acknowledge the applicant's frustrations with the Council's communication in respect of the preparation of a legal agreement, a signed and dated agreement was provided with the appeal. The Council confirmed in its evidence that the legal agreement satisfied its concerns in relation to climate change and effects on the Thames Basin Heaths Special Protection Area, and I took account of this in my decision. Consequently, the Council progressed the legal agreement within a satisfactory timeframe and did not behave unreasonably.
7. In conclusion, whilst the Council has shown some unreasonable behaviour, it has not resulted in unnecessary or wasted cost being incurred during the appeal process. Therefore, an award of costs is not warranted.

E Catcheside

INSPECTOR