

Costs Decisions

Hearing Held on 18 March 2025

Site visit made on 18 March 2025

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 15 April 2025

Costs application in relation to Appeal A: Ref APP/J0350/C/24/3355026 Land at 30-32 Wexham Road, Slough SL1 1UA

- 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 Ramandeep Singh Purewal (Wexham Constructions Limited), for a full award of costs against Slough Borough Council (or a partial award in the alternative).
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, the unauthorised erection of a part six/part five/part three-storey building.
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Costs application in relation to Appeal B: Ref APP/J0350/C/24/3355027 Land at 30-32 Wexham Road, Slough SL1 1UA

- 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 Mrs Amrita Kaur Purewal for a full award of costs against Slough Borough Council (or a partial award in the alternative).
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, the unauthorised erection of a part six/part five/part three-storey building.
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Costs application in relation to Appeal C: Ref APP/J0350/C/24/3355028 Land at 30-32 Wexham Road, Slough SL1 1UA

- 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 Gian Singh Purewal for a full award of costs against Slough Borough Council (or a partial award in the alternative).
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, the unauthorised erection of a part six/part five/part three-storey building.
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Costs application in relation to Appeal D: Ref APP/J0350/C/24/3355029 Land at 30-32 Wexham Road, Slough SL1 1UA

- 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 Ms Mandeep Kaur Aujla for a full award of costs against Slough Borough Council (or a partial award in the alternative).
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, the unauthorised erection of a part six/part five/part three-storey building.
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**Costs application in relation to Appeal E: Ref APP/J0350/C/24/3355030
Land at 30-32 Wexham Road, Slough SL1 1UA**

- 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 Raman Deep Singh Purewal for a full award of costs against Slough Borough Council (or a partial award in the alternative).
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, the unauthorised erection of a part six/part five/part three-storey building.
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Decisions

1. The applications for costs (Appeals A, B, C, D and E) are refused, both as regards full and partial awards.

Reasons

2. The Planning Practice Guidance 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. In essence, applications are made for *full* awards of costs because it is said that unnecessary expense has been incurred by the appellants since the appeals should not have been necessary. Were it not (it is argued) for the unreasonable behaviour of the Council, planning permission should have been granted by the Council for the development.
4. Applications are also made in the alternative for *partial* awards of costs on the basis it is said that, following the Council's refusal of permission, it was precipitous and inexpedient to issue the enforcement notice. Unnecessary expense has been incurred, it is argued, due to the additional expense associated with an enforcement appeal rather than a planning appeal against the decision to refuse the application.

The full award applications

5. Planning application P/19443/009, a scheme similar to the appeal development, was considered by the Council's Planning Committee on 26 July 2023 following a site visit. It was narrowly carried...¹:

That the Chief Planning Officer be authorised, in consultation with the chair and the Monitoring Officer, to approve the application subject to agreed conditions and the Section 106 agreement to secure affordable housing, education and all other infrastructure that is required to mitigate the impact of development on Burnham Beeches and that the Section 106 agreement be concluded within 6 months otherwise it shall return to the Planning Committee for further consideration.

6. As a matter of fact, by 26 January 2024 (6 months after the date of the above resolution) the Section 106 agreement had not been concluded. Based on the chronology that has been provided by the applicants, it seems that there was limited activity and progress made on their behalf by their solicitors in the weeks and months immediately preceding that date (particularly from 17 November 2023). In fact, having disputed the Council's drafting costs and

¹ 4 in favour, 3 against, 1 abstention

then having received a response from the Council's lawyers on the issue, the applicant's solicitors do not appear to have subsequently progressed matters at all up until the expiry of the 6 month period².

7. Accordingly, acting in accordance with the resolution, the Chief Planning Officer returned the application to the Planning Committee for 'further consideration'. There was nothing unreasonable in that. He was simply following the resolution of the Committee as an officer of the Council and conscientious public servant. Accompanying the returned application was a comprehensive officer report. Not only were the merits of the application again assessed (as in earlier reports to Committee) but an update was given on the planning history and the progress with the Section 106 agreement (including a clear note that the financial contributions had been agreed with the applicants notwithstanding the existence of a securing obligation).
8. The Committee, having further considered the planning application and all the circumstances made plain to it which had occurred since the making of the initial resolution, decided to refuse consent. It was entitled to do so, and I am not satisfied that the way it did so constituted unreasonable behaviour.
9. While ordinarily it seems to have been common practice upon making resolutions for Committees to give authority to the Chief Planning Officer/Planning Manager/Committee Chair to agree extensions for Section 106 agreements to be finalised, it did not do so in this case. I cannot say why it did not do so, although I note that the Committee on 26 July 2023 was rather split on their views about the development. It may be that the resolution was drafted in that context. In any respect, I do not find it to be a basis for a conclusion of unreasonable behaviour by the local planning authority.

The partial award applications

10. As accepted by the applicants, since they did not make ground (c) appeals, they constructed an unlawful building constituting a breach of planning control. It was so constructed before any associated planning permission was granted (as the May 2024 Committee Report refers) and was in fact refused by the Council on 11 June 2024.
11. The enforcement notice was issued on 9 October 2024. That was not precipitous and, in my experience, it is common practice for enforcement action to follow the refusal of applications seeking retrospective permission for unlawful development. Indeed, effective enforcement is important to maintain public confidence in the planning system. While the appellants may well have made an appeal against the refused permission, that does not mean that the Council was unreasonable in taking enforcement action (ultimately leading to the enforcement appeal before me) and I do not find that to be the case. Further, it is well-established case law that the matter of notice expediency is outside of my jurisdiction.

Andrew Walker

INSPECTOR

² Personal circumstances have been given, seemingly as an explanation or partial explanation for the limited progress of the fee earner at the firm of solicitors (which I shall not repeat here) and, while I sympathise, it is not conducive to the applicants' costs allegation of unreasonableness by the Council.