
Costs Decision

Site visit made on 29 April 2025

by **G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Costs application in relation to Appeal Ref: APP/D1590/W/24/3357514 67 West Road, Shoeburyness, Southend-on-Sea SS3 9DT

- 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 Daniel Mead for a full award of costs against Southend-on-Sea Borough Council.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use from shop/office (Use Class E) to dwellinghouse (Use Class C3).
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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 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 contends that the Council has prevented or delayed development which should clearly be permitted and that the correct two stage process for prior approval applications was not followed. The applicant considers that the development or changes done on site should not be considered as development in planning terms and that given planning permission was granted for the changes to the window and door these should be considered separately to the use.
4. Whilst I understand that the works to the window and door were granted planning permission separately, these works along with internal alterations already completed are considerations that inform the wider assessment as to whether a change of use has commenced. I have found in my appeal decision, as a matter of fact and degree, that works have commenced on the change of use. Consequently, I have found that the development would not fall under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). As such the development would not be permitted development under Class MA. I do not therefore consider that the Council prevented or delayed development which should clearly be permitted.
5. I recognise that the terminology used on the Council's decision notice, referencing 'prior approval is required but prior approval is refused' is not overly clear in reflecting the actual decision made by the Council. However, the Council clearly set out its reasoning for its decision in its delegated report along with an assessment

against the relevant parts of the GPDO informing the first stage of the assessment, as to whether the development would fall under the permitted development right that was being applied for.

6. Whilst the Council's delegated report did not go on to identify the second stage of the process regarding consideration of the prior approval matters, this was not necessary given the Council had clearly identified its position that the development would not fall under the Schedule 2, Part 3, Class MA permitted development rights set out in the GPDO.
7. As a result, whilst the terminology used by the Council could have been clearer, I do not consider that the appeal would have been avoided. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

G Dring

INSPECTOR