



Costs Decision

Site visit made on 4 June 2025

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 10th June 2025

Costs application in relation to Appeal A Ref: APP/D1590/W/24/3353542

69 Hamlet Court Road, Westcliff-on-Sea SS0 7EU

- 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 Hananya Friedman for a full award of costs against Southend-on-Sea Borough Council.
 - The appeal was against the refusal of prior approval for the change of use from commercial floorspace (Class E) to 1 x self-contained flat (Class C3).
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Appeal B Ref: APP/D1590/W/24/3357479

69 Hamlet Court Road, Westcliff-on-Sea SS0 7EU

- 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 Hananya Friedman for a full award of costs against Southend-on-Sea Borough Council.
 - The appeal was against the refusal of prior approval for the change of use from commercial floorspace (Class E) to 1 x self-contained flat (Class C3).
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Decision

1. The application for an award of costs is refused for both Appeal A and Appeal B.

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 asserts that the two prior approval applications subject of Appeal A and B have followed other applications which were refused for other reasons, with the aim of resolving issues previously raised by the Council. Whilst I do not have the full details of those previous applications before me, I have been provided with a timeline of events and some information including previous Delegated Reports. It does appear to me that there has been general consistency in approach to the proposals in terms of the issues raised, albeit alterations to the proposed scheme and different evidence submitted have resulted in different responses to the varying applications.
4. The applicant also contends that the Council has acted unreasonably through its interpretation that the works to reinstate glazing in an existing door would amount to operational development. Whilst I have taken a different view to the Council in this respect, this is a matter that employs planning judgement.

5. With regard to the Council's assessment of the submitted Analysis of site layout for Sunlight and Daylight Report (SDR), I have concurred with the Council in respect of Appeal A in my appeal decision that it is not clear from the drawings, or the commentary provided within the SDR itself, that the rear canopy and external staircase were taken into account in the SDR assessment.
6. Whilst I have taken a different view to the Council when considering all of the information before me and my site visit on this particular issue, this is also a matter of planning judgement, particularly given what is adequate natural light is not specifically defined by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I find that the Council adequately and clearly identified its concerns on this matter.
7. Whilst I note the approach taken in the appeal decision at The Stables, provided by the Council, I have found that the Council's third reason for refusal relating to European sites in Appeal A was not necessary, due to it being dealt with under a separate process under the Conservation of Habitats and Species Regulations 2017 (as amended). However, even if the Council has acted unreasonably in this respect, I do not consider that significant work has been carried out by the applicant in responding to this reason for refusal. Given the Council's planning judgement on the other two reasons for refusal, I do not consider that resolving this particular reason for refusal would have resulted in the appeal being avoided.
8. With regard to the Nationally described space standards (NDSS) and the Council's second reason for refusal set out in relation to Appeal B, I have found in line with the Council's approach that the proposed layout does not clearly show an open plan layout that would have the characteristics of a studio flat arrangement. I therefore find that the Council has not demonstrated a misunderstanding of the proposal or incorrectly assessed the scheme against the NDSS.
9. The applicant asserts that the Council failed to engage proactively in relation to the appeal site and the various previous schemes and the two before me now. The Council states that it considers that clear reasoning was provided in each Officer Report so that issues could have been resolved in subsequent applications. The Council state that the applicant was invited to discuss the applications and the previous applications, through the pre-application advice service but that the applicant chose not to do this.
10. I accept that the submission of a number of various schemes in order to resolve issues raised by the Council has added to the time taken to advance an acceptable scheme and that these delays are frustrating. Nonetheless, whilst further engagement may have helped to resolve the different issues, it is difficult for me to conclude that the Council acted unreasonably in this respect, based on the evidence before me.
11. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted in either case.

G Dring

INSPECTOR