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## Costs Decision

Site visit made on 5 June 2025

**by Hannah Guest BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 7 July 2025**

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### **Costs application in relation to Appeal Ref: APP/K0425/W/25/3361058 Shrublands Day Hospital, Queens Road, High Wycombe, Buckinghamshire, HP13 6AQ**

- 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 Property Matters (Albion) Ltd for a full award of costs against Buckinghamshire Council.
  - The appeal was against the grant subject to planning conditions of planning permission for external and fenestration alterations to Shrublands Day Hospital.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **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 PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations.
4. It is the applicants' view that the Council has acted unreasonably by imposing condition No. 4 (disputed condition) on grant of permission 24/07055/FUL, as the condition was not necessary to make the permitted development acceptable and did not fairly or reasonably relate to the development permitted.
5. The Council's officer report and appeal statement both recognise that as part of the proposed development the existing positioning of the ground floor windows to both side elevations would be retained and unaltered. It is also concluded that the retention of the windows in their existing condition would not harm the privacy levels of the occupants of the adjacent dwellings. This is partly due to there being an existing degree of mutual overlooking between the buildings.
6. I appreciate that changes to these windows, particularly changing those that are currently obscure glazed to clear glazing, could compromise the privacy of the occupiers of the adjacent dwellings and result in harm to their living conditions in this regard. I also understand that the initial scheme submitted as part of the

- application included some changes to these windows. Nevertheless, the approved scheme does not include any repositioning or resizing of these ground floor windows and there is no indication on the submitted plans that the finish of any of the ground floor windows would be altered as part of the approved scheme.
7. Given this, following consideration of the appeal on its own merits, I found the disputed condition is not necessary to make the approved scheme acceptable. This would be the case irrespective of whether there would have been a direct impact had the scheme not been amended as part of the application process. The alterations to the ground floor windows that formed part of the initial scheme did not form part of the approved scheme. The Council therefore made inaccurate assertions about the impact of the approved scheme and the necessity of the disputed condition to protect the living condition of the occupiers of the adjacent dwellings. This was unreasonable.
  8. In addition, as no alterations are proposed to the ground floor windows they fall outside the scope of the approved scheme and the disputed condition would therefore not be relevant to the development permitted.
  9. Overall, I recognise that, in this case, the imposition of the disputed condition did not prevent the permitted development from taking place. Nevertheless, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the disputed condition should not have been imposed as it does not meet the tests set out at Paragraph 57 of the Framework. The PPG advises that any proposed condition that fails to meet one of the 6 tests set out at Paragraph 55 (now Paragraph 57) of the Framework should not be used<sup>1</sup>. This applies even if the applicant suggests or agrees to it. In any event, from the email correspondence before me, it appears that the applicant did not agree to the disputed condition before the application was determined.
  10. Accordingly, imposing the condition, in this case, was contrary to the guidance in the Framework and the PPG and constituted unreasonable behaviour on the Council's behalf. As a result, the appellant has been faced with the unnecessary expense of an appeal.
  11. The Council has set out how it engaged positively with the applicant during the application process and determined the application without unnecessary delay. Nonetheless, the Council's behaviour in this regard does not form part of the applicant's costs application.
  12. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated to have occurred and a full award of costs is therefore warranted.

### **Costs Order**

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Buckinghamshire Council shall pay Property Matters (Albion) Ltd the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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<sup>1</sup> Paragraph: 005 Reference ID: 21a-005-20190723

14. The applicant is now invited to submit to Buckinghamshire Council whom a copy of this decision has been sent, details of those costs with a view to reaching an agreement as to the amount.

*Hannah Guest*

INSPECTOR