
Costs Decision

Site visit made on 13 August 2025

by **R Kent BA (Hons) MTP DipM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Costs application in relation to Appeal Ref: APP/N1730/W/25/3362797 NTT House, Waterfront Business Park, Fleet, Hampshire GU51 3QT

- 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 B2 Waterfront Ltd for a full award of costs against Hart District Council.
 - The appeal was against the refusal of the Council to prior approval for the removal of the existing roof, and the construction of 2 no. floors, one in facing brickwork to match existing and one in lightweight zinc to the front elevation and two floors of lightweight zinc to the rear. The creation of 24 no. apartments, 19 no. 2 bed units and 5 no. 1 bed units. The erection of 4 external cycle stores to the south of the building 1 no. additional parking space to the car park.
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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 Council's second reason for refusal suggested that the proposed development would not be immediately above the topmost storey of the existing building and therefore could not be permitted development under Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Paragraph C.(2) of Part 20 makes clear that references to a "storey" in Part 20 do not include any accommodation within the roof of a building.
4. The officer's report concluded that as the existing roofspace was, in the Council's view, a substantial and useable space it was capable of being a "storey." This does not accord with the interpretation provided in paragraph C.(2). Whilst the Council withdrew the reason for refusal in its Statement of Case, this was only after the appellant had prepared evidence to contest the reason. This included submitting its own Appeal Statement and a further opinion from King's Counsel drawing attention to paragraph C.(2). The appellant had also previously written to the Council, before it made its decision to refuse the application, to draw attention to the exclusion of accommodation within the roof of a building from the meaning of "storey" for the purposes of Class 20.
5. Withdrawal of a reason for refusal is cited in the PPG as an example of unreasonable behaviour which may give rise to a procedural award of costs against a local planning authority. The Council withdrew the second reason for refusal only

after the appellant had incurred the expense of preparing and submitting evidence to contest the reason. This constitutes unreasonable behaviour which has resulted in the appellant incurring unnecessary expense in the appeal process.

6. The Council based its decision on the information it had before it when it considered the application. Whilst the reasons for refusal did not refer to a lack of information about the nature of the proposed works, the officer's report did indicate that it had insufficient information in connection with the specific alterations, demolition and reinforcement required. The appellant provided further information during the appeal stage which included a Structural Feasibility Report and Structural Clarification. This provided more details of the nature of the proposed works which were not before the Council when it determined the application.
7. It is evident that the Council had an interpretation of Schedule 2, Part 20, Class AA of the GPDO which it applied to the appeal proposal. Whilst I did not agree with the Council's approach in my decision on the appeal, it is not uncommon for matters of interpretation of planning law, procedure or policy to be explored through the appeal process. The Council provided evidence to support its case and respond to the further information submitted by the appellant.
8. I recognise that following the submission of the appeal, the appellant offered to meet the Council, on a without prejudice basis, to discuss whether in principle a new application would be positively determined as an alternative to pursuing the appeal. That offer was made after the appeal had been submitted and the work had already been carried out in submitting the appellant's statement and related appendices. Although I do not agree with the Council's interpretation of the wording of paragraph AA.(1) and the limitation imposed by paragraph AA.1.(j), overall I am not convinced that it acted unreasonably in defending its position through the appeal process.
9. Nevertheless, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the withdrawal of the second reason for refusal and a partial award of costs is therefore warranted.

Costs Order

10. 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 Hart District Council shall pay to B2 Waterfront Ltd the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Hart District Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Kent

INSPECTOR