

Costs Decision

Site visit made on 11 September 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 October 2025

Application A:

Costs application in relation to Appeal Ref: APP/T0355/W/25/3364966

Tectonic Place, Holyport Road, Holyport, Bray, Maidenhead SL6 2HA

- 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 James Griffiths for a full award of costs against the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of the Council to grant prior approval for the change of use from use Class E (office) to C3 (residential) in order to create 28 flats under class MA of the General Permitted Development Order.
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Application B:

Costs application in relation to Appeal Ref: APP/T0355/W/25/3364966

Tectonic Place, Holyport Road, Holyport, Bray, Maidenhead SL6 2HA

- 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 the Royal Borough of Windsor and Maidenhead for a full award of costs against Mr James Griffiths of Sorbon Estates, the appellant.
 - The appeal was against the refusal of the Council to grant prior approval for the change of use from use Class E (office) to C3 (residential) in order to create 28 flats under class MA of the General Permitted Development Order.
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Decisions

1. Application A for the award of costs is dismissed.
2. Application B for the award of costs is allowed, in accordance with the terms set out below.

Reasons

3. 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.

Application A

4. The appellant alleges the Council acted unreasonably by not engaging with them during the consideration of the prior approval application; to seek amendments to the layout of one unit and/or it could have imposed a condition to resolve the reason for refusal. Particularly, in view of the minor nature of the change needed to resolve the Council's concern and the government objective to encourage the re-use of commercial buildings for residential. The appellant also asserts the Council acted unreasonably by refusing other previous applications, rather than imposing conditions that would have resolved the reasons for refusal.

5. Paragraph W of Part 3 Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO) sets out what must accompany prior approvals under Part 3. For development under Class MA, this includes, a floor plan indicating the total floor space in square metres and the dimensions and proposed use of each room of the dwellinghouses. Therefore, the Council was within its right to determine the prior approval application on the basis of the plans submitted and is not obliged to re-design the scheme and seek amended plans where certain required criteria are not met. Furthermore, any conditions imposed on a prior approval would need to meet the relevant tests for conditions, as set out within the National Planning Policy Framework (the Framework) and be relevant to the prior approval matters.
6. The failure to meet the Nationally Described Space Standards (2015) (NDSS) relates to only 1 flat within the development and, the shortfall in floor space is not significant. However, the Council gave clear reasons for its decision and the details of the shortfall from the NDSS requirements were evident in the appellant's submission. Therefore, despite the scale of the deficiency, it was not unreasonable for the Council to base its decision on such information.
7. Substantive details of the previous schemes for the proposed change of use of the appeal buildings to residential¹, including the plans, have not been provided to allow full comparison with the appeal proposal. Furthermore, the examples provided of prior approvals² granted with conditions under Class MA of the GPDO do not include conditions requiring amended plans to meet the NDSS. Therefore, although other decision-makers in those examples accepted the use of conditions on the prior approvals, the circumstances differ from the appeal proposal and the appellant's suggested condition.
8. Additionally, the fact that the appellant did not appeal previous prior approvals for similar schemes at the appeal site, and instead chose to submit further applications, does not demonstrate that the Council acted unreasonably, causing wasted expense in relation to the appeal scheme. Rather it was at the discretion of the appellant to decide whether to submit an appeal in relation to the previous applications. Furthermore, the evidence shows that the appellant was aware of the pending Article 4 Direction and, that this would remove permitted development rights for the proposed change of use applied for.
9. To conclude, whilst the government supports the reuse of commercial buildings to residential and even if the Council cannot demonstrate a 5 year supply of housing land, I am not persuaded that the Council's behaviour was unreasonable. As such, unnecessary or wasted expense, as described in the PPG, has not been demonstrated in respect of the appeal. Consequently, an award of costs is not justified against the Council.
10. For these reasons and taking account of all matters raised, the application for costs made by the appellant is refused.

Application B

11. The Council contends the appellant has acted unreasonably, as it was aware the Article 4 Direction, which removed permitted development rights for the proposed

¹ Including application refs. 21/01581/CLASSO and 21/02282/CLASSO

² Application Refs.21/02282/CLASSO and 25/00988 and appeal ref. APP/T0355/W/24/3348050

change of use, had come into force before the appeal was submitted. As a result, the appeal could have no prospect of success in such circumstances.

12. The appellant's appeal statement sets out the date that the Article 4 Direction came into force and acknowledges that this removes permitted development rights for the change of use from Class E to C3 from that date. Consequently, with the Article 4 Direction in place for the appeal site, the prior approval process can no longer apply to the appeal scheme and so, the appeal could not succeed.
13. Furthermore, the evidence provided demonstrates that the necessary procedures for the Article 4 Direction were followed, including that formal consultation was carried out before it came into force. As noted above, the appellant sought to submit new applications rather than resort to appeals on the previously refused schemes at the appeal site. However, this did not remove the appellant's right to appeal on such previous schemes and, the appellant was aware of the pending Article 4 Direction. Therefore, this does not show the Council acted unreasonably.
14. The appellant contends that the Council was unhelpful and unreasonable, which in their view, was a deliberate approach to frustrate the change of use application prior to the adoption of the Article 4. Although, based on the evidence provided, I have not found that the Council acted unreasonably in respect of the appellant's application for costs, for the reasons given above.
15. To conclude, as the appellant was aware of the Article 4 Direction being in force at the time of their appeal submission and so, the appeal could not be successful, I find that unreasonable behaviour by the appellant is demonstrated. Therefore, the Council has incurred wasted and unnecessary expense in preparing the appeal. Accordingly, an award of costs against the appellant is justified.

Costs Order for Application B

16. In the 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 Mr James Griffiths of Sorbon Estates shall pay the Royal Borough of Windsor and Maidenhead (the Council) the costs of appeal proceedings described in the heading of this decision. Such costs are to be assessed in the Senior Courts Costs Office if not agreed.
17. The Council is now invited to submit to Mr James Griffiths of Sorbon Estates, whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Billings

INSPECTOR