



Costs Decision

Site visit made on 30 September 2025

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 October 2025

Costs application in relation to Appeal Ref: APP/T0355/X/23/3333956

5 Combermere Close, WINDSOR, SL4 3PY

- 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 Ms Katherine Shewell for a full award of costs against the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of a certificate of lawful use or development (LDC) sought for the proposed siting of a mobile home to be used as additional accommodation to the main dwelling.
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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 (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 considers that the Council has behaved unreasonably as firstly, they have not followed well-established case law; secondly, they have not determined similar cases in a consistent manner; and thirdly, they refused to enter into discussions.
4. In respect of established caselaw, the Council did not reference the *Byrne*¹ case in the section for the construction test but the appellant placed reliance upon it. The Council considered the development as likely to represent building operations and not a caravan, which was an option open to them based on the facts of the case. In the *Lloyd*² case, it was perfectly reasonable to place reliance on the obiter comments of Sullivan LJ and to conclude that the Court of Appeal had in mind not only what the difference between a building and a caravan was, but also what occurs on-site to distinguish the two.
5. The applicant refers to the Council's alleged inconsistency concerning twin unit mobile homes made by the same manufacturer. Some six similar applications were made to the Council by the agent between 2016 to 2022 for which LDCs were issued in each case on the basis of a Certificate of Compliance from the manufacturer, but no structural calculations were requested. In the 'Tall Trees' application, the Council took the view that works had been underway to lay foundations for what appeared to be to facilitate the erection of a building. The

¹ *Byrne v SSE and Arun* (1997) P&CR 420

² *Lloyd v SSCLG* [2014] EWCA Civ 839.

agent maintained the position that the works involved were the construction of two sections of a mobile home but the works were subsequently dismantled. Again, it is not unreasonable for a local planning authority to review its information requirements from time to time if there is a sound reason to do so.

6. The applicant considers that the Council has not been sufficiently helpful to provide the opportunity to overcome any perceived lack of information that could have led to the LDC being issued. The first LDC application was withdrawn in the light of a possible refusal without the submission of additional information. The second application (subject to this appeal) was submitted with the additional information but the case officer indicated that the application would also be refused as the structure was considered to be a building. Unlike a s78 application, an application for an LDC places the onus of proof clearly on the applicant although it is a matter for individual Councils to determine how much support can be given to an applicant to get an application in order to provide a positive outcome. Whether the Council could have been more helpful is not apparent from the emails and other information submitted by the parties.
7. Although I have found in favour of the appellant in respect of the appeal, it does not mean that the Council has behaved unreasonably, it is more a question of the different weight that different parties place on the same facts and decisions that pull in different directions. It also seems from the applicant's submissions that legislation and case law is eminently clear and having only one interpretation. This appeal demonstrates that this is not the case.
8. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

P N Jarratt

INSPECTOR