



Costs Decision

Site visit made on 7 October 2025

by Zoë Franks

an Inspector appointed by the Secretary of State

Decision date: 11 DECEMBER 2025

Costs application in relation to Appeal A Ref: APP/Y0435/C/24/3346271, Appeal B Ref: APP/Y0435/C/24/3346272 and Appeal C Ref: APP/Y0435/C/24/3346273

8 Knights Crescent, Bletchley, MILTON KEYNES, MK2 2FJ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Milton Keynes Council for a full award of costs against Mr Gregory Primus D'Souza and Mrs Othelia Sabina Fernandes.
 - The appeal was against an enforcement notice alleging a rear extension with roof lights.
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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 development alleged in the enforcement notice in these appeals was the subject of a retrospective planning application (Ref: 23/00449/HOU) and appeal decision APP/Y0435/D/23/3330048 dated 26 January 2024. The ground (a) appeal was therefore barred which only left the ground (d) to proceed. In order to succeed the appellants would have needed to show on the balance of probability that the development had been substantially completed for a period of more than 4 years prior to the issuing of the notice. In fact that appellants did not allege this to be the case but stated that the works had been substantially completed a little over 2 years prior to the date of the notice, and as such the entire appeal could have been avoided.
4. The appeal as made under ground (a) for the deemed planning application was for the same development which had been refused permission on appeal just several months previously. Whilst an amended scheme was suggested later in the proceedings, this could not be considered and the ground (a) appeal was barred. The appellants could have withdrawn the appeals once they realised that the ground (a) appeal would not be considered, and in light of the fact that they did not argue that the works were completed more than four years prior to the date of the notice and so could not succeed under the ground (d), but did not do so.
5. However, the appellants did seek professional advice in making the appeal, and the changes which resulted in the ground (a) being barred had only recently been implemented when the notice was issued, and its full implications regarding the

proposed alternative scheme may not have been understood initially. Once this had been confirmed to the appellants in correspondence from the Planning Inspectorate by email dated 22 October 2024, it was not reasonable to continue with the appeals which should have been withdrawn at that point to prevent any further wasted costs. As such a partial award of costs from this date is justified.

6. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's costs in the appeals after 22 October 2024 and a partial award of costs is therefore warranted.

Costs Order

7. 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 Mr Gregory Primus D'Souza and Mrs Othelia Sabina Fernandes shall pay to Milton Keynes Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred after 22 October 2024; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Mr Gregory Primus D'Souza and Mrs Othelia Sabina Fernandes, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Zoë Frank

INSPECTOR