



# The Planning Inspectorate

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Civic Centre

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Your Ref: 4/01493/96FUL

Our Ref: APP/A1910/A/98/290099

(COSTS)

Date: 30 October 1998

Dear Madam

## LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)

## TOWN AND COUNTRY PLANNING ACT 1990 - SECTIONS 78 AND 322A

## LAND AT HIGH STREET, TRING, HERTS

## APPEAL BY ROSE AND CROWN HOTEL: APPLICATION FOR COSTS

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to refer to the Planning Inspectorate's letter of 5 May 1998, confirming withdrawal of the appeal by the Rose and Crown Hotel against Dacorum Borough Council's refusal of full planning permission on 18 November 1997 for single and two storey rear extensions at the above address.

2. This letter deals with the Council's application for an award of costs against the appellants, made in the letter dated 11 May 1998. The appellants' agents responded in their letter of 20 June 1998. As the full text of these representations has been made available to the parties, it is not proposed to summarise them. They have been carefully considered.

## SUMMARY OF DECISION

3. The formal decision and costs order are set out in paragraphs 9 and 10 below. The application succeeds to the extent that a partial award is being made.

## BASIS FOR DETERMINING COSTS APPLICATION

4. In planning appeals, the parties are normally expected to meet their own expenses, irrespective of the outcome of the appeal. Costs are awarded only on the grounds of "unreasonable" behaviour, resulting in the unnecessary or wasted expenses. Relevant policy guidance is published in DOE Circular 8/93 (referred to below as the "Costs Circular"). The application for costs has been considered in the light of this guidance, the appeal papers, the parties' correspondence on costs and all the relevant circumstances.

## **REASONS FOR THE DECISION**

5. All the available evidence has been carefully considered. The decisive issue is considered to be whether or not the appellants acted unreasonably, and in turn caused the Council to incur wasted or unnecessary expense, by withdrawing their appeal when they did. Particular regard has been paid to the policy guidance in paragraphs 5 to 10 of Annex 2 to the Costs Circular. Paragraph 9 states that an appellant may be at risk of an award of costs against him if he withdraws an appeal without any material change in the Council's case or any other material change in circumstances relevant to the issues arising on the appeal after the principal parties had received formal notification of the inquiry or hearing arrangements.

6. In this case, the parties were notified by the Inspectorate in letters dated 18 February 1998 that the hearing into this appeal would take place on Wednesday 20 May 1998. The brief reason given by the appellants' agents for withdrawing the appeal was that they no longer wished to extend the hotel. They have stated only that they had notified the Council by telephone on 24 April, before the pre-inquiry statements were to be exchanged, that the appeal was to be withdrawn; and they had not been advised that the pre-inquiry statement had already been produced. Previous discussions had led them to believe that the statements would be exchanged as late as practicable.

7. The appellants' reason for withdrawing the appeal is not considered a good one. There is no evidence of any extenuating circumstances beyond the appellants' control. The fact that the Council had been forewarned on 24 April 1998 by the appellants' agents that the appeal was to be withdrawn does not cancel out any of the preparation work already done on the appeal. In any event, the Inspectorate's letter of 26 January 1998 forewarned the appellants that withdrawal after the hearing date is fixed might result in an award of costs. Paragraph 5 of Annex 2 also makes clear that a warning of an intention to withdraw is not regarded as a formal decision that the appeal is withdrawn. It goes on to say that until the formal notice is received (by the Inspectorate), the appeal is still extant and all parties must assume they will need to attend any proceedings.

8. Accordingly, in these circumstances, it is concluded that the appellants acted unreasonably by withdrawing the appeal and this caused the Council to incur wasted preparation costs. The normal pre-conditions for an award of costs, as set out in paragraph 6 of Annex 1 to the Costs Circular, have therefore been met.

## **FORMAL DECISION**

9. For these reasons, the Secretary of State has decided to make a partial award of costs in the Council's favour, from 23 February 1998 (inclusive). In accordance with paragraph 9 of Annex 2 to DOE Circular 8/93, this excludes a period of 3 working days after the posting of the Inspectorate's letter of 18 February 1998 to the appellants' agent, formally confirming the hearing arrangements, to allow for postal delivery and receipt.

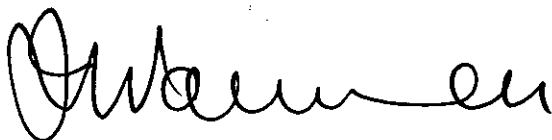
## **COSTS ORDER**

10. Accordingly, the Secretary of State for the Environment, Transport and the Regions in exercise of his powers under section 250(5) of the Local Government Act 1972, sections

78 and 322A of the Town and Country Planning Act 1990, and all other powers enabling him in that behalf, **HEREBY ORDERS** that the Rose and Crown Hotel shall pay to Dacorum Borough Council their costs of the appeal proceedings before the Secretary of State, limited to those costs incurred from 23 February 1998 (inclusive), such costs to be taxed in default of agreement as to the amount thereof. The subject of the proceedings was an appeal against the Council's refusal of planning permission more particularly described in paragraph 1 of this letter.

11. You are now invited to submit to the appellants, whose agents a copy of this letter has been sent, details of these costs with a view to reaching agreement on the amount. A copy of the guidance note on taxation procedure, referred to in paragraph 5 of Annex 5 to DOE Circular 8/93, is enclosed.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'John Parnell', written in a cursive style.

JOHN PARNELL

Authorised by the Secretary of State  
to sign in that behalf



# PLANNING

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Herts HP1 1HH

Mr A.King  
Folly Bridge House  
Bulbourne  
Tring, Herts  
HP23 5QG

Applicant:  
Rose and Crown Hotel  
High Street  
Tring  
Herts  
HP23 5AH

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01493/96/FUL

ROSE AND CROWN HOTEL HIGH STREET TRING HERTS  
SINGLE AND TWO STOREY REAR EXTENSIONS

Your application for full planning permission dated 13 November 1996 and received on 15 November 1996 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 18 December 1997

**REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01493/96/FUL**

Date of Decision: 18 December 1997

- 1. The proposed extension, due to its height, mass and design, is unsympathetic to adjacent development at 19 Mansion Drive and would have a detrimental effect on the amenities of the residents of this property and the environment of the locality.**
- 2. The proposed development is excessive on the site which is inadequate satisfactorily to accommodate the proposal together with the necessary amenities and vehicle parking facilities.**
- 3. The loss of the existing garage and staff accommodation and its replacement with a large two storey extension would have a detrimental effect on the general character and amenity of a designated Conservation Area.**