
Costs Decision

Site visit made on 22 November 2016

by Mr N P Freeman BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 December 2016

**Costs application in relation to Appeal Ref: APP/G5750/C/16/3146854
98 Nelson Street, East Ham, London, E6 2QA**

- 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) by the Council of the London Borough of Newham for a full award of costs against Ms S J Namata.
 - The appeal was against an enforcement notice alleging the erection of an extension without planning permission.
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Decision

1. The application for an award of costs is refused.

Reasons

2. I have considered the application in the light of advice contained in the Government's Planning Practice Guidance on such matters. This advises that irrespective of the outcome of the appeal costs may only 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. I note that in the submissions for the Council there is no claim or comment that the appellant's pursuit of ground (a) and the deemed planning application amounts to unreasonable behaviour. This being the case only a partial rather than a full award would be justified if unreasonable behaviour leading to unnecessary expense is found on the other grounds pursued. For the sake of clarity I would add that although I have found against the appellant on ground (a) and not granted planning permission for the development, I consider that sufficient reasoning was advanced for the appellant on matters of substance to support this ground of appeal.
4. In terms of the other grounds, it is clear from the Appeal Decision that I have only found in favour of the appellant on ground (g). However in planning appeals costs do not follow the event but it is necessary to demonstrate that the appellant acted unreasonably in pursuing them leading to wasted expense for the Council. Whilst I have not accepted the arguments for the appellant on grounds (b), (c) and (d) a reasonable explanation was provided for pursuing these grounds. I have not found these arguments and the approach taken to be convincing or supported by the legal framework applying. Nevertheless, I do not accept that there was no basis at all for pursuing these grounds. There may well have been some misunderstanding of how the legal principles and rights apply but I do not accept that this goes so far as to constitute unreasonable behaviour on the part of the appellant.

5. On ground (f) sufficient reasoning was supplied to support its pursuit and to advance suggestions which amount to lesser steps to those required by the notice. Again whilst they have not resulted in success on this ground they nevertheless present a case. I would add that, as explained in my decision, there could be merit in discussions over what might be permissible by way of a more modest form of development. This provided a reason for extending the compliance period and the success on ground (g).
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

NP Freeman

INSPECTOR