



Costs & Decisions Team

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Your Ref:

Our Ref: APP/Y5420/C/16/3145096

Date: 23 March 2017

Dear Sir

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 174 & 322
LAND AT 109 GLADESMORE ROAD, LONDON, N15 6TL
APPEAL BY MR DAVID PILLER: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspector's decision of 2 March 2017 regarding the appeal by Mr David Piller. The appeal was against Haringey London Borough Council's issue of an enforcement notice dated 22 January 2016. The enforcement notice alleged a breach of planning control, on land described above, by "*the unauthorised erection of a single storey rear extension.*"

2. This letter deals with your application, on behalf of the appellant, for a partial award of costs against the Council as made in an e-mail dated 5 October 2016 following the abortive site visit on 28 September 2016¹. The Council replied on 26 October 2016. The parties' submissions have been carefully considered.

Summary of decision

3. The costs application succeeds and a partial award of costs is being made. The formal decision and costs order are set out in paragraphs 10 and 11 below.

Basis for determining the costs application

4. In enforcement notice appeals (as for appeals in general) the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour, resulting in unnecessary or wasted expense.

5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party in proceedings which do not give rise to a local inquiry where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.

¹ The appellant's initial costs application dated 8 March 2016 against the Council regarding the validity of the enforcement notice and the reasons for issuing it is the subject of a separate decision by the Planning Inspector dated 2 March 2017.

6. The application for costs has been considered in the light of the costs guidance as stated in the Government's Planning Practice Guidance (PPG), the appeal papers, the parties' costs correspondence and all the relevant circumstances.

Conclusions

7. The costs policy guidance warns that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, for example by complying with the requirements and deadlines of the process. In this case it is noted that the site visit arranged for 28 September 2016 was aborted by the Planning Inspector because the Council had failed to send out appeal notification letters to the correct neighbouring properties.

8. In their response to the costs application the Council acknowledge that they made an error in the consultation process that resulted in the Inspector's site visit of 28 September being aborted. In the particular circumstances the Secretary of State sees no reason to conclude other than that the Council acted unreasonably in this case by failing to notify the correct neighbouring properties of the appeal. As a result the appellant was put to quantifiable wasted expense in being represented at a site inspection which had to be aborted. A partial award of costs will therefore be made to reflect this. No reason is seen to conclude that an award should be withheld on grounds of exceptional or mitigating circumstances.

9. For the avoidance of doubt the Secretary of State does not determine the amount of costs payable where an award of costs is made. The amount of costs incurred will be for the parties to resolve by agreement on the basis of full particulars, or failing that, in the context of an application to the Senior Courts Costs Office for a detailed assessment.

FORMAL DECISION

10. For these reasons, it is concluded that a partial award of costs against the Council, on grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense, is justified in the particular circumstances.

COSTS ORDER

11. Accordingly, the Secretary of State for Communities and Local Government, in exercise of his powers under section 250(5) of the Local Government Act 1972 and sections 174 and 322 of the Town and Country Planning Act 1990, and all other powers enabling him in that behalf, **HEREBY ORDERS** that Haringey London Borough Council shall pay to Mr David Piller his costs of the appeal proceedings before the Secretary of State limited to those costs incurred in attending the site visit (abortive) on 28 September 2016; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an enforcement appeal more particularly described in paragraph 1 of this letter.

12. You are now invited to submit to Alan MacPherson (Planning Enforcement Officer) at Haringey London Borough Council details of those costs with a view to reaching agreement on the amount. A copy of this letter has been sent to him.

Yours faithfully

S Parsons

STEVE PARSONS
Authorised by the Secretary of State
to sign in that behalf

