



Costs Decision

Inquiry and site visit held on 25 April 2017

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 11 May 2017

Costs application in relation to Appeals refs: APP/A5270/C/16/3152973 237 Greenford Road, Greenford Ealing UB6 8QZ

- 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 the Council of the London Borough of Ealing for a full award of costs against Mr Kasim Hassan.
 - The appeal was against an enforcement notice alleging the material change of use of an outbuilding to a self-contained dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. The right of appeal should be exercised in a reasonable manner and Mr Hassan protected his interest in the land by submitting an appeal against the enforcement notice. It seems that he selected the grounds of appeal under s174 of the 1990 Act as amended and considered there was a reasonable prospect of success on ground (d) and (a).
3. Mr Hassan was professionally represented and the Council is concerned about the degree of engagement and response to the ground (d) appeal. The Council is unhappy with the extent and scale of evidence presented in support of the immunity claim. It sought early sight of the evidence in order to assess whether or not the notice should be withdrawn. In this case there was considerable misunderstanding as to the evidential burden but it seems to me Mr Hassan perceived documentary evidence for example, tenancy agreements and bank statements, were sufficient. I have found weaknesses in his case nonetheless sufficient evidence was presented in support of the immunity claim. In terms of the planning merits, my conclusion is consistent with the Council's approach. The development is clearly not in accordance with local and national planning policy and there is no other material consideration to outweigh that conflict. Nevertheless Mr Al-Ebadi did his utmost to present a case and substantiated his arguments by reference to planning policy.
4. I do not find any evidence of deliberate resistance to, or lack of co-operation with the Council in providing information. Delay had not been caused by reason of prevarication. Information had been provided during the Council's investigation, site visits and at planning application stage. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs, partial or full, is unjustified in this case.

A U Ghafoor

Inspector
