
Costs Decision

Site visit made on 5 June 2017

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

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

Decision date: 31 July 2017

Costs application in relation to Appeal Ref: APP/Q5300/X/16/3163896 25 Ladysmith Road, Enfield, EN1 3AJ

- The application is made under the Town and Country Planning Act 1990, Sections 195, 322 and Schedule 6 and the Local Government Act 1972, Section 250(5).
 - The application is made by Martin Malinski ("the Applicant") for a full award of costs against the Council of the London Borough of Enfield ("the Council").
 - The appeal was against the refusal of a Certificate of Lawful Use or Development ("LDC") for a single-storey rear extension and alterations to the existing raised patio.
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Procedural Matters

1. The Appeal Decision in respect of this case was issued on 8 June 2017.

Decision

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

Reasons

3. The Planning Practice Guidance ("the 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.
4. I have explained in my Appeal Decision why the Rear Extension proposed in the LDC application does not benefit from permitted development rights and the Council's decision regarding that matter was well-founded. Clearly, in these circumstances, the Applicant is not entitled to an award of costs regarding that matter.
5. In the application for the LDC the Applicant stated that the Proposed Patio "*will comply with the requirements of Class E and would be less than 300mm*". I am not persuaded that Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") is relevant to the determination of whether the Proposed Patio would be permitted development.
6. It was only at the appeal stage that the Applicant suggested that the Proposed Patio would be permitted development under Class F of the Order. In my Appeal Decision I explained why I agree with the Applicant on that matter.
7. I do not consider that the Council acted unreasonably in concluding that the Proposed Patio would not be permitted development given that the Applicant only brought to the Council's attention the permitted development rights in Class F of the Order at the appeal stage.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tim Belcher

Inspector