

Costs Decision

Site visit made on 26 July 2017

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 23 August 2017

Costs application relating to Appeal Ref: APP/E5900/C/16/3165837 25 Jamestown Way, London E14 2DE

- The application is made by Rajshree Laturia under the Town and Country Planning Act 1990, sections 174 and 322 and Schedule 6, and the Local Government Act 1972, section 250(5), for a partial award of costs against the Council of the London Borough of Tower Hamlets.
 - The appeal was against an enforcement notice alleging "Unauthorised front roof extension and installation of solar panels to the roof of the property".
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Costs order

1. In exercise of the powers in section 250(5) of the Local Government Act 1972 and Schedule 6 to the Town and Country Planning Act 1990 and all other enabling powers in this behalf, the Council of the London Borough of Tower Hamlets are ordered to pay to Rajshree Laturia the costs of the appeal proceedings described above, so far as they relate to the appeal made in relation to the front roof extension, such costs to be assessed in the Senior Courts Costs Office if not agreed.
2. The applicant is invited to submit to the Council of the London Borough of Tower Hamlets, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Reasons for the costs order

3. The application is for a partial award of costs, limited to the appeal relating to the front roof extension.
 4. The Government's Planning Practice Guidance ("the Guidance") indicates that the parties to an appeal are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, the party may be subject to an award of costs.
 5. The Council took the view before deciding to issue the enforcement notice that the provisions of the 2015 Order applied to the front roof extension. They persisted with this view even after the appellant in her appeal statement had pointed out that the provisions of the 1995 Order applied.
 6. I analysed the situation in paragraphs 6 to 14 of the appeal decision. All the information that was available to me was also available to the Council before
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they issued the notice, either from their records or from their inspection of the site and its surroundings or by examining the legal position.

7. The Guidance states that effective enforcement action relies on accurate information about an alleged breach of planning control. It points out that local planning authorities must carry out adequate prior investigation before taking enforcement action and that they are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place, or ensured that it was accurate. It also indicates that they should keep their case under review during an appeal as part of sensible on-going case management.
8. The Council failed to comply with these standards in this case, as far as the allegation that the front roof extension was a breach of planning control is concerned. Their behaviour in these respects was unreasonable.
9. If the Council had acted reasonably the notice would not have been issued in relation to the front roof extension, the appeal would not have been made in this respect and the appellant would not have incurred unnecessary and wasted expense in the appeal process relating to it. I have therefore found that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the Guidance, has been demonstrated and that a partial award of costs is justified. The application has therefore been allowed and the costs order set out above has been made.

D.A.Hainsworth

INSPECTOR