



Costs Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 11 May 2020

**Appeal ref: APP/T3725/C/19/3242977: Application for costs
Land at 19 Camberwell Terrace, Leamington Spa, Warks, CV31 1LP**

- The costs application is made under section 250(5) of the Local Government Act 1972 and sections 174 & 322 the Town & Country Planning Act 1990, as amended.
- The application is made by Mr R Scimeca (RLS Property Ltd) against Warwick District Council.
- The appeal was made under section 174(2)(g) of the Town & Country Planning Act 1990, as amended.

Summary of decision: The application fails and no award of costs is being made.

Reasons for the decision

1. The appellant claims that the Council acted unreasonably by issuing the enforcement notice when they did in the knowledge that a planning appeal had been submitted for retrospective planning permission, thus causing the appellant to incur wasted expense in the submission of the enforcement appeal. However, it is good practice for Councils to issue an enforcement notice soon after refusing planning permission on a retrospective planning application in order to protect their position. They cannot be expected to await the outcome of a planning appeal before issuing an enforcement notice, only for an appeal to then be made against the enforcement notice and for the compliance period to begin again after that decision. In this case, a decision was reached on the planning appeal before a decision on the enforcement appeal. However, should that not have been the case, it would simply have been something for me as the Decision Officer to have taken into account in my determination of the enforcement appeal. In these circumstances, I am not satisfied the Council acted unreasonably by issuing the enforcement notice when they did. No award of costs will therefore be made.

Formal decision

2. For the reasons given above, I conclude that the Council did not act unreasonably, causing the appellant to incur wasted or unnecessary expense as a result. No award of costs is therefore justified in the particular circumstances.

K McEntee