



Costs Decision

Site visit made on 2 June 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2020

Costs application in relation to Appeal Ref: APP/A5270/C/19/3240269 185 Somerset Road, Southall, Middlesex UB1 2UQ

- 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 Mrs Sarojben Patel.
 - The appeal was against an enforcement notice alleging the erection of a separate self-contained residential dwelling at the rear of the premises.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 'Appeals' section advises that parties in planning appeals should normally meet their own expenses. However, all parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence. Costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030). Guidance on what is meant by 'unreasonable' is set out in paragraph 031.
3. The Council sought an award of its costs on substantive grounds. The application was made in writing, in accordance with the guidance at PPG paragraph 035. In summary, the Council argued that the ground (f) appeal had no reasonable prospect of success, as the appellant had failed to provide any supporting evidence relevant to that ground.
4. Appellants are required to exercise the right of appeal in a reasonable manner. According to the PPG paragraph 053, an appellant will risk an award of costs being made against them on substantive grounds if their appeal had no reasonable prospect of succeeding. Paragraph 053 contains a non-exhaustive list of examples where this may occur. One of these examples makes it clear that in an appeal against an enforcement notice, the onus of proof on matters of fact is on the appellant.
5. The appellant's initial submissions under the ground (f) heading were largely relevant to ground (a). As there was no ground (a) appeal and no deemed planning application, those submissions therefore had limited relevance. However, the appellant expanded on their case in later submissions, in which they set out a more detailed basis for the appeal, including evidence relevant to ground (f). The submitted evidence put the appellant's case on a

respectable footing. In determining the appeal, it was necessary to undertake an assessment of whether what the notice required the appellant to do was excessive, having regard to their evidence and the purpose of the notice. As a result, I cannot be certain that the appeal had no reasonable prospect of succeeding.

6. Accordingly, the conditions for an award of costs at PPG paragraph 030 have not been met.

Conclusion

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

Stephen Hawkins

INSPECTOR