



Costs Decision

Site visit made on 8 June 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Costs application in relation to Appeal Ref: APP/L5810/C/19/3243290 68 Kew Road, Richmond TW9 2PQ

- 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 Ms Tanya Lawler for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against an enforcement notice alleging the application of render to the front façade and alterations to window-sills, to the decorative brickwork below the sills and to the arched lintels above the windows and front door.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour can be either substantive (relating to the merits of the appeal) or procedural (relating to the process) in nature. Examples of unreasonable behaviour that may lead to an award of costs against appeal parties are set out in the PPG.
4. It is the appellant's case that the Council failed to engage in dialogue or provide feedback on their planning application prior to the decision. They further submit that the issue of the notice was unreasonable, as they were following the previous Inspectors advice by submitting a planning application for proposed remedial works.
5. There was no obligation on the Council to approve that application. S172(1)(b) empowers a Council, as the local planning authority, to issue an enforcement notice, when it appears to them that there has been a breach of planning control and they consider it expedient, having regard to the provisions of the development plan and other material considerations. This is a discretionary power and it is for the Council to decide whether it is expedient and proportionate to issue a notice. The issue of whether it was expedient, for the Council to issue the notice, in the particular circumstances of the case, would usually be dealt with by way of judicial review. I am satisfied that in this instance, there was a breach of planning control and the Council were therefore

entitled to exercise their discretionary powers to issue the notice in order to remedy that breach.

6. Whilst I understand the sense of frustration which the lack of dialogue might have caused, I have no reason to conclude that the Council behaved unreasonably in the procedure leading up to their decision. Moreover, it will be seen by my decision that the appeals have not succeeded. Accordingly, it follows that I cannot agree that the Council has acted unreasonably, and that their decision to issue an enforcement notice has caused any party to incur unnecessary or wasted expense in the appeal process.

Conclusion

5. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated in this instance. Accordingly, I refuse the application for an award of costs against the Council.

Hilary Orr

INSPECTOR