



Costs Decision

Site visit made on 27 July 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Costs application in relation to Appeal Ref: APP/A5270/C/20/3248342 22 St Andrews Road, Acton W3 7NE

- 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 Mr Harwant Virk.
 - The appeal was against an enforcement notice alleging the erection of a mansard roof extension and the erection of a 2-storey side extension.
-

Decision

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

Reasons

2. Planning Practice Guidance 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. The Council's case is two fold. Firstly, that the appellant has unreasonably pursued this appeal and failed to adequately address his grounds of appeal; and secondly, that the Council have incurred expenses in defending an appeal under ground (b), which was then withdrawn late by the appellant.
4. I acknowledge that part of the appellants case related to matters that would more correctly be considered under ground (a), and that no appeal had been made on that basis. However, it was the appellant's case that the extension benefitted from permitted development rights conveyed by the GDPO.
5. It will be seen from my decision, that I do not agree with this view. Accordingly, the lack of any relevant documents to support their case, means that the weight I can afford to his assertions is limited. Nonetheless, I do not consider that theirs was an unreasonable stance to pursue. Moreover, establishing the principle elevation on a dwellinghouse is a matter that has to be considered on the available evidence and on a site by site basis. The fact that the appellant was unable to make a persuasive case, is not a determining factor for awarding costs.
6. Turning to the Councils second reason for requesting costs. From the evidence before me, the Council's assertions are unclear. The appellant's appeal form clearly refers only to ground (c). The appeal start letters dated 16 March 2020, sent to both parties, make it clear that the appeal is proceeding on ground (c)

alone. Furthermore, there is no reference to ground (b) in either the appellant's, or indeed the Council's statement received on 20 April 2020. Accordingly, there is no evidence before me that the appellant has either acted unreasonably in this regard, or that the Council have incurred unnecessary expenses in defending an appeal under ground (b).

7. For the above reasons, it follows that I cannot agree that the appellant has acted unreasonably in this case. No award of costs is therefore made.

Hilary Orr

INSPECTOR