



Costs Decisions

Site visit made on 1 September 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Costs application in relation to Appeal A Ref: APP/X5990/C/19/3242405 2 Godson Yard, London NW6 5FE

- 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 City of Westminster Council for a full award of costs against Mrs Nazma Neilsen.
 - The appeal was against an enforcement notice alleging the unauthorised erection of a raised platform with associated decking and fencing to the rear elevation of the Property at first floor level, as shown in the attached Photographs A, B and C, located in the approximate area shaded red on the attached Plan 2.
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Costs application in relation to Appeal B Ref: APP/X5990/C/19/3242410 2 Godson Yard, London NW6 5FE

- 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 City of Westminster Council for a full award of costs against Mrs Nazma Neilsen.
 - The appeal was against an enforcement notice alleging the unauthorised development consisting of the removal of a timber framed sash window to the rear elevation of the Property at first floor level and its replacement with a UPVC-framed glazed door, as outlined in red on the attached Photograph A.
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Decisions

1. The applications for an award of costs for Appeals A and B are refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The Council claims that the appellant acted unreasonably for a number of reasons. Firstly, it is claimed that in both appeals the appellant has failed to substantiate their grounds of appeals sufficiently. In respect of Appeal A, the Council state that only three sentences have been submitted to support the appeal on ground (g), and in respect of Appeal B relating to the ground (d) appeal, only one demonstrably false sentence was initially submitted. The Council state that no six week appeal statement was initially submitted by the

appellant, and that the appellant sought an extension of time only after the deadline had passed. The Council consider that they have spent time and incurred wasted expense in dealing with these appeals which had little chance of success.

4. With regards to Appeals A and B, it was before the appellant to consider on which grounds to appeal. For Appeal A, it is not uncommon for appeals on ground (g) to be relatively brief, and I note that the appellant has provided an explanation in their appeal statement as to why they need additional time to comply with the notice (i.e. to allow further time for their submitted applications and any potential appeals to be determined). I do not therefore consider the appellant has behaved unreasonably in this regard.
5. For Appeal B, whilst it will be seen from my decision that I consider that on the balance of probabilities, the Council's evidence provides the more cogent and thus probable account of timings, the appellant's appeal is nevertheless supported by a number of statements from the appellant, a friend, colleague and former neighbour. Therefore, the appellant's claim is not unsubstantiated. It follows I am satisfied that the appellant has not acted unreasonably.
6. Regarding the extension of time requested by the appellant, the Council accepts that the Covid-19 pandemic has placed terrible strain on people, public services and society in general and state that they have no objection to an extension of time provided there is a reasonable reason. In response to this the appellant's agent has outlined the difficulties he has encountered during the pandemic and states that the extension of time allowed him to carry out a further site visit and submit the appeal statement which was informed by the visit. I am satisfied that the appellant has not acted unreasonably by making this request.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the Council's claim for costs for Appeals A and B fails.

R Satheesan

INSPECTOR