



Costs Decision

Site visit made on 12 October 2020

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2020

Costs application in relation to Appeal Ref: APP/A5270/C/19/3241774 31B Hamilton Road, Ealing, London W5 2EE

- 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 Harbans Singh.
 - The appeal was against an enforcement notice alleging without planning permission: the material change of use of the property to 6 self-contained residential units.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can only be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council considers that the appellant acted unreasonably in the submission of the appeal, on the grounds that no substantive evidence was submitted to support the grounds of appeal or address the Council's reason for issuing the enforcement notice.
4. The PPG makes it clear that the appellant is at risk of an award of costs if it delays the provision of information or other failure to adhere to deadlines. It is incumbent on the appellant to consider whether there is a reasonable prospect of the appeal succeeding and the burden of proof rests with the appellant in respect of an appeal against an enforcement notice.
5. The appellant contends that he was shielding, due to Covid 19, and it was not possible for him to meet with his professional representative, nor was it possible to secure the evidence to support his appeal. However, Covid 19 concerns had been raised at an early stage and an extension of time for the submission of statements was given. Notwithstanding this, the extended deadline passed without any documentation or further extension requests being submitted.
6. In this instance, the appellant had professional representation and proceeded with the appeal without addressing the reasons for issuing the notice and without providing substantive evidence to support their grounds of appeal. As a result, the Council has been put to the expense of defending their position when the appeal effectively had no hope of succeeding.

7. I therefore find that unreasonable behaviour by the appellant, resulting in unnecessary or wasted expense as described in the PPG, has been demonstrated and that an award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Harbans Singh shall pay to the Council of the London Borough of Ealing, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The Applicant is now invited to submit to Mr Harbans Singh, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

M Madge

INSPECTOR