

Costs Decision

Site visit made on 16 April 2021

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Costs application in relation to Appeal Ref: APP/Q5300/D/20/3264252 Land at Rye Cottage, 99 Trent Gardens, London, N14 4QB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Eleanor Petrou for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for the erection of a 6ft fence with 3ft trellis attached on top at the bottom of the garden to offer privacy and security after losing conifers to decease [sic] last year.
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Decision

1. The application for an award of costs is 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.
3. Paragraph 047 of the PPG makes clear that local planning authorities (LPA) are at risk of an award of costs if they provide information that is shown to be manifestly inaccurate or untrue or deliberately conceal relevant evidence during the application stage. The appellant's case is that the LPA failed to consider whether permitted development rights were engaged and therefore misdirected the appellant into making a planning application that was not necessary. Thereafter the LPA undertook an inaccurate assessment of the development which led to the refusal of planning permission.
4. It is clear from the evidence that the LPA did consider whether the replacement fence was permitted development (PD). Officers told the appellant, in writing, on two occasions (9 April 2020 and 29 July 2020) that having reviewed the case with their managers it was not PD because it was in excess of 2m high. The e-mail dated 29 July 2020 expressly states that this was the case "even if you had one there previously". The appellant was therefore left in no doubt as to the Council's position. She went on to provide additional information to validate her application which was registered on 13 August 2020.

5. Thereafter the LPA assessed the application in accordance with the Development Plan and other material considerations as it was bound to do, referring in the delegated report to the previous fence and trees. Having done so, it was not unreasonable for it to refuse planning permission if it was concluded that the development conflicted with the Development Plan and there were no material planning considerations to outweigh this. That was a matter of judgement.
6. The appellant refers to the Town and Country Planning (General Permitted Development) Order (GPDO) 2015, and specifically to Part A.1(c) which appears to be a reference to Part 2, (Minor Operations) Class A. It is suggested that the officers and manager were oblivious to this. However, Part 2, Class A paragraph A.1(c) refers only to maintenance, improvement or alteration of an existing gate, fence or wall. Moreover, the submitted plans indicate that the replacement structure would be in excess of 2m and higher than the original.
7. I am therefore satisfied that the LPA did give proper consideration to the case, gave the appellant clear advice as to its findings and went on to assess the planning application based on the facts, reaching its decision in the context of the Development Plan and other material planning considerations.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

KE Down
INSPECTOR