



Costs Decision

Hearing held on 8 June 2021

Site visit made on 10 June 2021

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2021

Costs application in relation to Appeal Ref: APP/M5450/C/19/3238654 Land at 12 Felbridge Avenue, Stanmore HA7 2BH

- 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 Mr Ehidiamen Irabor for a full award of costs against the Council of the London Borough of Harrow.
 - The hearing was in connection with an appeal against an enforcement notice alleging: Without planning permission: the material change of use of the detached outbuilding to use as a guest rental unit.
-

Decision

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

The submissions for Mr Ehidiamen Irabor

2. The applicant submitted a written application for costs dated 17 September 2020. The applicant provided a further written submission after the Council's response, as well as oral submissions made at the Hearing, which were as follows:

"I am being persecuted. I am only here because name is Irabor. An officer came to my house and was satisfied it is not a House in Multiple Occupation. This led to something else. There has been a shift in the goalposts. No one would talk to me. [A Council officer] took from July until October to respond. I have been targeted as you have a case with my younger brother. Nobody has ever communicated anything to me. Is this what planning law is about? You cannot report anyone. [There is] in-house mafia. If an officer of government could lose to deal with a private citizen that citizen has a right to defend himself. If someone said you should not have been doing Airbnb I would abide by it. [The Council] string me along. I have to suffer financial loss. They want to ensure I have lost financially, spending a lot of money trying to defend myself. Mr Olding does not know at all, he is s just playing to a script."

The response by the London Borough of Harrow

3. In addition to its written response, the Council responded orally at the Hearing as follows:

"There are no grounds for costs. The officer investigating has dealt with the case in line with enforcement policy. Concerns about the conduct of an officer have to go down the appropriate platform regarding complaints procedures. We are satisfied the Council is in line with enforcement policy."

Reasons

4. 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.
5. The written application for costs contained no explanation of unreasonable behaviour which has caused the applicant unnecessary or wasted expense in the appeal, nor any explanation of the unnecessary or wasted expense incurred. So in advance of the Hearing, I advised the parties in my Hearing Agenda that particular regard should be had to paragraphs 046 – 053 of the PPG in respect of any costs applications. These paragraphs set out when an award of costs might be made and the type of behaviour that may give rise to an award of costs.
6. Whilst the examples of unreasonable behaviour in the PPG are not exhaustive, no reference has been made by the applicant to types of behaviour that may give rise to an award of costs, set out in the PPG.
7. The applicant indicates an officer of the Council has made a statement which is not true. But I am not satisfied this allegation has been substantiated.
8. It is said by the applicant that the Council's case is without proof of its claim. But in an appeal on legal grounds, as is the case here, the onus is on the appellant, not the Council, to make out their case.
9. The applicant refers to standards of behaviour by the Council but without being specific about exactly what behaviour is of concern.
10. In the view of the applicant, the appeal has only come about because of his family name. But there is no evidence which satisfies me this is the case.
11. The applicant indicates there has been a lack of communication from the Council. But this in itself does not necessarily constitute unreasonable behaviour.
12. Financial loss referred to by the applicant has not been explained in the context of unreasonable behaviour by the Council.
13. It is also alleged that there is "in-house mafia". But this allegation has not been substantiated.
14. This costs application may only extend to the appeal which is before me. I am not able to consider costs in relation to other appeals which are not before me.
15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

L Perkins

INSPECTOR