

Costs Decision

Hearing Held on 15 July 2021

Site visit made on 22 July 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 15th September 2021

Costs application in relation to Appeal Ref: APP/N5090/C/20/3264986 Land at Rear of 14 Hadley Highstone, Barnet EN5 4PU

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Ylli Alla for a full award of costs against the Council of the London Borough of Barnet.
 - The hearing was in connection with an appeal against an enforcement notice alleging without planning permission, the making of a material change of use of the land to use for storage (including of a portable cabin, car components and waste materials).
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Decision

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

Reasons

2. The Planning Practice Guidance 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. The applicant says the Council behaved unreasonably in relation to previous enforcement notices issued on the site and that the history shows an "abuse of power". However, this costs application can only be determined in relation to the notice in the appeal before me which I have upheld. Accordingly, I do not consider its issue constitutes such an abuse. It is established law that s172 of the Act does not prevent a Local Planning Authority from issuing further notices in respect of the same breach or in similar terms as a previous notice¹.
4. The applicant says the Council submitted no evidence during the appeal. However, that is not correct as evidence was submitted by the Council through its hearing statement and at the event. In any case, the burden of proof was on the appellant since the appeal proceeded on legal grounds. The applicant further argues that Ms Bernard and Mr Sutherland-Thomas should have provided signed statements of truth through which their evidence might be adduced. However, the Council had provided an appropriate hearing statement under Rule 5 of the Hearings Procedure Rules² and there was nothing unfair or unreasonable in the Council officers speaking at the Hearing as regards the evidence it contained, or in responding to the appellant's arguments. I place no significance on the fact that the officer report was unsigned, and Ms Bernard as the author confirmed at the Hearing that it was effectively signed-off by the practice of emailing it to her manager upon completion.

¹ Edwick v Sunbury on Thames UDC [1964] 63 LGR 204; Biddle v SSE & Wychavon DC [1999] 4 PLR 31

² The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Walker

INSPECTOR