
Costs Decision

Hearing held on 6 July 2021

Site visit made on 7 July 2021

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04th October 2021

Costs application in relation to Appeal Ref: APP/N5090/F/20/3265178 Land at 13 Golders Way, London, NW11 8JY

- The application is made under section 89 Planning (Listed Buildings and Conservation Areas) Act 1990, and Schedule 3 of the Local Government Act 1972, section 250(5).
 - The application is made by Mr J Hayeem for a full award of costs against the Council of the London Borough of Barnet.
 - The Hearing was in connection with an appeal against a listed building enforcement notice alleging the carrying out of internal and external operations/building works not in accordance with the terms of listed building consent.
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Decision

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

Reasons

2. The application for costs and the arguments advanced for the applicant, and for the Council in response, were set out in detail in their written submissions. As such, I need not repeat them here.
3. The Planning Practice Guidance (PPG)¹ advises that irrespective of the outcome of an appeal, costs may only be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG lists examples of behaviour whereby a procedural or substantive award of costs may be justified. However, the list of examples should not be regarded as exhaustive.
4. An enforcement notice is a legal document which, if upheld, may have serious consequences for parties who may be affected by its requirements. Hence, the Council has a procedural duty to ensure that any enforcement notice issued by them is carefully drafted. In this case, as detailed in the associated appeal Decision letter, the notice was technically defective and invalid to beyond a point that it could be corrected without injustice. Consequently, the notice had to be quashed.
5. In conclusion, the procedural failure to exercise sufficient care in drafting the notice amounts to unreasonable behaviour by the Council which has resulted in wasted expense for the appellants in having to pursue an appeal against a defective notice.

¹ Paragraph 030 ref 16-030-20140306

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Barnet shall pay to Mr J Hayeem, 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.
7. The applicant is are now invited to submit to the Council of the London Borough of Barnet, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Shields

INSPECTOR