

Costs Decision

Site visit made on 21 September 2021

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Costs application in relation to Appeal Ref: APP/R5510/X/21/3276493 26 Broadcroft Avenue, Stanmore HA7 1PB

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Vimal Hirani for a full award of costs against the Council of the London Borough of Hillingdon.
 - The appeal was against the refusal of a certificate of lawful use or development for Construction of a porch.
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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. In brief, the Appellant's case is made on the basis that: the Council failed to "follow the correct guidelines and procedures/protocol" when formulating its decision and this unreasonable behaviour led to his incurring unnecessary expense at appeal. He says that he is seeking to reclaim the professional expenses of his agent. I have taken this to be an application for an award of full costs.
4. In response, the Council stated it did not behave unreasonably resulting in unnecessary or wasted expense. The application was determined within the statutory time period and assessed against the relevant criteria of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and was found to not comply as the submitted drawings contained a number of inconsistencies.
5. In their final comments, the Appellant refers to the drawing inconsistencies as "unfortunate" and that this might have been easily addressed if the Council had acted collaboratively. On this point, they point out that the Council did not undertake a site visit. They further point to the 3 months that it took for the Council to determine the application as being indicative of its unreasonable behaviour.
6. The start point for an assessment of an application for an award of costs is described as follows in the PPG: "Parties in planning appeals and other planning proceedings normally meet their own expenses"¹. It goes on to say that a

¹ Paragraph: 028 Reference ID: 16-028-20140306. Revision date: 06 03 2014

successful award of costs is reliant on a party acting unreasonably, and that this led to unnecessary expense.

7. The Council's decision was based on an interpretation of the GPDO that, as the proposed porch would be attached to an earlier extension it would be an extension and, therefore, should be assessed against the terms of Class A of the GPDO. Whilst I found that the Council's case was not well founded, it was well-reasoned, and I did not find it to be fanciful or frivolous. Neither side was able to provide any case law or appeal decision that addressed this matter, so the Council was entitled to make the judgement it did.
8. There is no evidence that the lack of a site visit by the Council had a bearing on the decision that was made, and I cannot see how a site visit would have altered its decision. Furthermore, although these were relatively minor, the Council was correct to point out the discrepancies in the submitted drawings. As it made reference to these in an Informative, rather than as a reason for refusing to issue a certificate, this did not result in additional and unnecessary cost to the Appellant. Lastly, I note that the Council failed to determine the application within the statutory time limit. However, awards of costs are limited to those incurred in the appeal process. There is no evidence to suggest that a more timely decision would have led to a different outcome and, in any event, the Appellant could have appealed against the Council's failure to determine the application in a timely manner, but did not.
9. That I found that the Council's approach to be incorrect and allowed the appeal does not automatically equate to unreasonable behaviour. It did not act unreasonably, and its submissions explained how its actions were reasonable.
10. For the above reasons, the claim for costs fails.

Roy Curnow

Inspector