
Costs Decision

Site visit made on 21 September 2021

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Costs application in relation to Appeal Ref: APP/Y5420/X/20/3261546 47 Woodland Gardens, London N10 3UE

- 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 Dmitri Bsimpas for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the refusal of a certificate of lawful use or development for a single-storey outbuilding.
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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 appellant's costs claim is founded on two principal factors – firstly, that the Council found that a Party Wall agreement would be required, and secondly that the proposal involved retaining walls. Whether or not the proposal would require an agreement under the Party Wall etc Act 1996 is not relevant to a determination as to whether a development would be lawful, and I agree that reference to it is unreasonable in the context. Secondly the plans do not show any retaining walls. The Council has come to its own conclusion that retaining walls would be required without the evidence to support such a contention, and I agree it was unreasonable for the Council to make that claim.
4. However, in order for a costs claim to succeed it must be demonstrated that the unreasonable behaviour resulted in the appellant incurring wasted or unnecessary expense. The principal argument advanced by the Council as set out in the decision notice is that the proposal would involve engineering operations which were beyond the scope of the deemed permission granted under Article 3 and Class E of the Town and Country Planning (General Permitted Development Order) (England) 2015. In its statement, the Council placed no reliance on any need to obtain a Party Wall agreement or on the alleged requirement for retaining walls.
5. The Council's sole argument was that the works required to construct a level footplate would involve a separate and significant activity of substance, which is a matter of planning judgement. Thus, notwithstanding the unreasonableness of the Council's behaviour in referring to two incorrect or irrelevant considerations, the appeal would still have need to have been

brought to address the more specific objection, which the appellant has not contended was unreasonable.

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

JP Roberts

INSPECTOR