



Costs Decision

Site visit made on 31 January 2022

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2022

Costs application in relation to Appeal Ref: APP/A5270/X/21/3266891 1 Harrow View Road, Ealing W5 1NA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D and Mrs S Pedreschi for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against a refusal to grant a certificate of lawful use or development (LDC) which sought the siting of a mobile home/caravan within the residential curtilage.
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Decision

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

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 appellants have made an application on both procedural and substantive grounds. They contend the Council did not follow the correct procedure for considering lawful development certificates and were wrongly influenced by the planning merits of the proposal.
4. In its report, the Council incorrectly described the proposal and failed to give proper consideration to the established statutory definition of a caravan. However, it also cited that the proposal might be a caravan. This showed muddled and contradictory thinking. The complexity of then installing the caravan was a matter for the appellants rather than a reason to have refused the appeal application.
5. The Council also failed to give proper consideration to the various appeal decisions that were submitted, which gave them very clear guidance on the approach to take, but instead placed significant weight on other case law which did not relate to a caravan. It has therefore failed to have regard to long-established principles and case law.
6. The Council has provided no response to the application.
7. The Council considered that there was nothing in the CSA that prevented them from considering whether the proposal was a building. However, there was very limited evidence that the proposal would have amounted to a building –

the appellants were simply seeking certification for a caravan within an existing planning unit.

8. As I found in my corresponding appeal decision, the Council therefore misdirected itself. Moreover, this was despite the appellants advising them of the correct procedure and approach to assess an application for proposed lawfulness of this type, and they even provided appeal decisions to that effect.
9. Had the Council therefore not unreasonably misdirected itself, it inevitably would have come to a different conclusion and the appeal, and with-it the appellants costs that have flowed as a direct consequence, would not have been necessary.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Ealing shall pay to Mr D and Mrs S Pedreschi 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.
12. The applicants are now invited to submit to the Council of the London Borough of Ealing to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul T Hocking

INSPECTOR