
Costs Decision

Site visit made on 8 March 2022

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Costs application in relation to Appeal Ref: APP/M5450/C/20/3253818 671 Honeypot Lane, Stanmore HA7 1JE

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J P McGoldrick for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against an enforcement notice alleging the construction of a rear extension and wooden canopy, and the change of use of one house into two houses.
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Decision

1. The application is refused.

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. I note concerns raised by the appellant about the Council not responding in a timely manner to Freedom of Information (FOI) requests for documents and evidence that led the Council to pursue taking enforcement action. Moreover, that the Enforcement Notice (EN) was attacking development that was causing no harm or matters that do not fall within the ambit of planning control.
4. However, the Information Commissioners Office is a separate avenue to resolving matters related to FOI requests. Also, although the appellant expresses misgivings about the information eventually provided and the delayed taking of enforcement action after the extension was granted approval under building regulations, the Council did respond to the applicant on 3 November which is 7 days before the appeal was started. Consequently, the appellant was able to introduce anything arising from the FOI documents into the appeal without any delays.
5. In terms of the development attacked by the EN, I have found harm in my appeal decision related to the change of use of the property to two houses that is causing me to dismiss the appeal and upheld the EN. Pursuing enforcement action related to the change of use was therefore legitimate. It is the case that I have found the operational development comprising the main rear extension and the wooden canopy to be acceptable. Nevertheless, the consideration given to the effect of the extensions on the living conditions of neighbours did require a judgement to be made based on the site circumstances. Just

because I have found in favour of the appellant in this respect does not mean that the Council's case was without any reasonable substance.

6. Certain works in themselves may not have been development. However, I have addressed in my decision that it was not wrong to include requirements to have a kitchen and a bathroom removed.
7. Overall, in the appeal the Council did not act unreasonably. Thus, the test for an award of costs has not been passed. The application should be refused.

Gareth Symons

INSPECTOR