
Costs Decision

Site visit made on 31 May 2022

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2022

Costs application in relation to Appeal Ref: APP/N5660/D/21/3288658 110 Endymion Road, London, SW2 2BP

- 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 Tom Newton for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of planning permission for the replacement of 4 single glazed timber sash windows and 1 casement window with 5 double glazed sash windows to the front and rear. Replacement of 1 double glazed timber French doors with 1 double painted aluminium bi-fold doors to the rear.
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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 application of costs is based on an assertion that the Council's planning and conservation officers did not visit the site and that better engagement with the applicant and his agents would have avoided the need for the appeal.
4. However, in providing advice in relation to cost applications, the PPG¹ identifies types of behaviour which may give rise to a procedural award against a local planning authority. These are in relation to procedural matters at the appeal. Accordingly, any concerns the applicant may have about the Council's decision-making in the determination of his application are for the Council.
5. The PPG² also advises that a local planning authority could be at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by unreasonably refusing or failing to determine planning applications, failing to produce evidence to substantiate each reason for refusal, or vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
6. Whilst it will be seen from my decision that I have come to a different conclusion to the Council, the decision is one which is a matter of judgement.

¹ Paragraph: 047 Reference ID: 16-047-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is of considerable importance and weight and it was not unreasonable for the Council to come to the conclusion it did. Moreover, I am satisfied that the Council has shown that it was able to substantiate its reason for refusal within its Officer report.

7. Furthermore, from the officer report it does appear that the applicant was given the opportunity to amend the plans with a view to overcoming the Council's concerns. I am therefore not convinced that further engagement or discussions on site with the applicant would have avoided the need for the appeal. Furthermore, the costs incurred by the appellant in pursuing the appeal were the normal costs arising when the right of appeal is exercised.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, a full award of costs is not justified.

J Davis

INSPECTOR