
Costs Decision

Site Visit made on 4 April 2023

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2023

Costs application in relation to Appeal Ref: APP/J0350/C/21/3288772 47 Furnival Avenue, Slough SL2 1DW

- 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 Slough Borough Council for a full award of costs against Mrs Kaur Bahia.
 - The appeal was against an enforcement notice alleging use of an outbuilding as a self-contained dwelling.
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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. Although it has not specified this, from its submissions I have taken this to be an application for a full award of costs. The Council's position is that the case put forward by the Appellant was based on the planning merits of the development and was not, therefore, relevant. It says that the burden of proof lies with an Appellant to make their case in an enforcement appeal. Here, there was no reasonable prospect of success. The Appellant's actions amount to unreasonable behaviour that has led to unnecessary expense.
4. The Appellant did not reply to the application.
5. The Planning Practice Guidance¹ sets out that the onus of proof in enforcement appeals only lies with the Appellant in matters of fact. In an appeal under Ground (f) the Appellant is not bound by this dictat.
6. The Appellant's case was not wholly based on planning merits arguments. Other arguments relevant to Ground (f) were put forward and, to a limited degree, these were successful.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Roy Curnow

Inspector

¹ Paragraph: 053 Reference ID: 16-053-20140306: Revision date: 06 03 2014