



Costs Decision

Site visit made on 4 April 2023

by D Boffin BSc (Hons), DipTP, MRTPI, Dip Bldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2023

Costs application in relation to Appeal Ref: APP/A5270/C/22/3300869

Premises known as 18 The Fairway, Northolt, Middlesex UB5 4SL

- 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 London Borough of Ealing for a full award of costs against Ms Swee Liew.
 - The appeal was against an enforcement notice alleging the construction of an outbuilding and raised platform at the rear of the land.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 PPG states that an appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding or information is provided that is shown to be manifestly inaccurate or untrue. The Council considers this is the case for this appeal as the appellant submitted no evidence with her appeal form to support her grounds of appeal and submitted no 6 week statement. It also considers that she made inaccurate statements with regards to: the appeal outbuilding being in place at the time she bought the property, which was in 2016; the appeal outbuilding was a refurbishment of an existing building; the platform was not raised.
4. The Council also considers that the appellant lives at the property and presumably has personal knowledge of its history. No specialist planning knowledge is needed to understand these points; they are matters of fact, well within the scope of matters which any appellant should be expected to be able to describe accurately.
5. The appellant appealed on grounds (b), (c), (d) and (f) and the onus of proof is on the appellant within the first three of those grounds. The evidence supplied to support the grounds of appeal was minimal as only the information supplied on the appeal form was submitted by the appellant. However, that evidence indicated that she considered she had permission for the outbuilding. The planning history supplied by the Council indicates that a Certificate of Lawful Development (LDC) was granted in 2019 for development that included a single storey detached garden outbuilding. She has also explained within the response to the costs application that her builder always insisted that he had

not deferred from the drawings and plans that were submitted to the Council for approval. Whilst the appellant did not submit the robust evidence that is normally expected to support these grounds of appeal, she nevertheless has provided the information that she considers is pertinent. Although, it will be seen from my decision that I disagree with the appellant on these matters some, albeit, limited evidence has been put forward to support the appellant's grounds of appeal.

6. I also note that the appellant is unrepresented, and therefore is unlikely to be fully aware of the appeal process, with particular regard to planning enforcement and all of the grounds of appeal when dealing with an enforcement notice. I acknowledge that an agent submitted the LDC application for the appellant and within the costs response she has stated that she now realises she should have appointed an agent. Nevertheless, the appellant clearly considered that the service of the notice was unjustified. The PPG sets out that the right of appeal should be exercised in a reasonable manner. Whilst I have not agreed with the appellant, it is evident that she is not a planning professional and had every expectation that her case had a prospect of success. It follows that I am satisfied that the appellant has not acted unreasonably in this respect.
7. On the appeal form (grounds (b) and (c) responses) the appellant states that *'This part of the property is already existed there when I bought the property.... Secondly, nothing has been risen, the only change made is the refurbishment of the storage unit...the platform has not been raised.'* When read literally these statements indicate that the appellant considers that the outbuilding and raised platform already existed when she bought the property in 2016, that the storage unit has only been refurbished and the platform has not been raised. However, when taken together with the responses to the ground (d) and (f) appeals on that form I consider that it is apparent that the appellant is referring to the pre-existing garage when she cites *'this part of the property'*.
8. It also appears that the storage unit cited is the garage. I have agreed with the Council that there is little visible evidence that the pre-existing garage has been incorporated into the outbuilding that has been constructed. Nevertheless, it is unclear if the appellant considers that refurbishment equates to partial/full replacement of the garage. It is clear when read as a whole that she considers that the outbuilding is at a similar ground level to that of the garage which is why she states the platform has not been raised. Even though the information on the appeal form if read literally can be treated as being misleading I do not consider that it can be treated as being manifestly inaccurate or untrue. It follows that I am satisfied that the appellant has not acted unreasonably in this respect.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated and the application for an award of costs fails.

D Boffin

INSPECTOR