



Costs Decision

Site visit made on 24 April 2023

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/B5480/C/22/3299488 60 Brooklands Road, Romford RM7 7EB

- 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 for a full award of costs against Mr Linus Nwanemuogh by the Council of the London Borough of Havering.
 - The appeal was against an enforcement notice alleging the residential use of a self-contained outbuilding.
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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 Council has made an application on both procedural and substantive grounds. The Council considers that the information provided in the appeal form was inadequate and that providing new later information resulted in the appeal process being prolonged and the Council had to introduce new evidence in its final comments. The Council refers to the appellant failing to provide a clear case or any evidence in support of their case and deliberately providing a tenancy when the enforcement notice had been served.
4. The appellant's response is that the requirements of the appeal process were complied with and the appeal documentation was accepted as valid without requiring any further information or expansion on grounds. The occupation of the outbuilding is not prohibited until the appeal is determined and is not relevant to costs. Any extra costs would have been minimal and those costs would have been incurred anyway but at a different stage of the appeal.
5. The appeal proceeded on grounds (f) and (g) only and as part of my decision, I amended the wording of the requirements as well as the allegation. I also found partial success on ground (f) and ground (g). The appellant did set out some reasoning for the ground (f) appeal in the appeal form and also referred to a 12 month period of compliance for ground (g). Those matters were expanded upon in the appellant's statement.
6. The Council has misunderstood the reference to 'other essential supporting documents' in assuming that a Statement of Case has to be filed at the outset with the appeal form. Whilst appellants can choose to provide a statement at

that stage, there is no requirement to do so. The Council did not have to make assumptions in addressing grounds (f) and (g) in its statement. The Council's statement is an opportunity to set out its reasoning for the wording for ground (f) and for the time allowed in ground (g).

7. There is no evidence that the appellant deliberately withheld information that it could have made earlier as the appellant's information was contained in his statement in accordance with the timetable. The Council had the opportunity to respond to the appellant's statement as part of its final comments, it chose to provide further evidence as well as comments and was allowed to do so. As the appellant states, had information been provided earlier in the appeal, the Council would have carried out the same work but earlier in the appeal process.
8. The Council is aggrieved that the outbuilding was unoccupied at the time of the service of the notice but is now occupied. However, the notice does not come into effect until the issue of the Decision Letter. I have no information as to whether or not there was an occupier when the appeal form was lodged, but the reference to an occupier in the appeal statement enabled the Council to address that matter in its final comments. The new occupation of the appeal building during the course of the appeal is not by itself unreasonable behaviour.
9. I do not find unreasonable behaviour on the part of the appellant in terms of either a failure to comply with procedure, withholding evidence or not substantiating the grounds of appeal.

Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

E Griffin

INSPECTOR