



Costs Decision

Site visit made on 18 April 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Costs application in relation to Appeal Ref: APP/H5960/W/22/3309217 4B Herndon Road, London SW18 2DG

- 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 Moni Zaman; Mohammed Mahmudul Haq; Faheem Zaman and Julia Zaman for a full award of costs against Mr Aiman Shanks.
 - The appeal was against the refusal to grant planning permission for alterations including erection of rear dormer extension above part of two storey back addition and formation of roof terrace above part of two storey back addition with 1.7m high screen surround without complying with a condition attached to planning permission Ref 2016/5035.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In general, interested parties who become involved in appeal proceedings do so at their own volition and are expected to meet their own expenses. The Planning Practice Guidance (PPG) makes clear that an award of costs will not be made where unreasonable behaviour relates to the merits of an appeal. However, exceptionally an award may be made in favour of, or against, an interested party on procedural grounds. The PPG also sets out that costs cannot be claimed for the period during determination of the planning application.
4. In this case the main issue is whether the appellant acted unreasonably, causing Moni Zaman; Mohammed Mahmudul Haq; Faheem Zaman and Julia Zaman, as interested parties, to incur wasted expense in the appeal process. They allege that the appeal was without merit and the appellant failed to discuss matters relating to the development with them.
5. The National Planning Policy Framework encourages early engagement between parties. However, there is no obligation to do so. Whilst the appellant did not appear to discuss matters with Moni Zaman; Mohammed Mahmudul Haq; Faheem Zaman and Julia Zaman he is not duty bound to do so. As such, in my view, his actions do not amount to unreasonable behaviour.

6. It should be noted that the right of appeal is a statutory right. The appellant has produced a cogent Statement of Case which sets out the merits of their case rather than making vague, generalised or inaccurate assertions. Based on the information before me I am not persuaded that the appellant has failed to substantiate their case at appeal. I therefore conclude that the actions of the appellant do not amount to unreasonable behaviour.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

B Thandi

INSPECTOR