



Costs Decision

Site visit made on 13 June 2023

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Costs application in relation to Appeal Ref: APP/A5270/X/22/3301216 241 Oldfield Lane North, Ealing, Greenford UB6 8PP

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Sanjay Kumar for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of a certificate of lawful use or development for "garage ancillary to the Class E commercial unit".
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 030 of the Government's Planning Practice Guidance (PPG)¹ advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG² advises that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of unreasonable behaviour include not determining similar cases in a consistent manner.
4. The appellant's case is that the Council has not determined the application having regard to consistency. This is because firstly it says the Council applied the incorrect immunity period test for building operations, by applying a ten year rule rather than a 4 year rule. Secondly, it says the Council wrongly assumed the application was to demonstrate that the outbuilding was within a Class E use, when the description of the development in the application was "continued use of a single storey outbuilding as a garage ancillary to the existing commercial unit (Use Class E)".
5. However, for the reasons set out in the main decision, both of these grounds are confused and erroneous. I found that the Council followed the correct test in assessing whether the use of the outbuilding, as described in the application, was lawful.

¹ Reference ID: 16-030-20140306

² Reference ID: 16-049-20140306

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

R. Merrett

INSPECTOR