



Costs Decision

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Costs application in relation to Appeal Ref: APP/Q5300/X/22/3298504 24 Livingstone Road, Southgate N13 4SD

- 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 the Council of the London Borough of Enfield for a full award of costs against Mrs L Sohawon.
 - The appeal was against the refusal of a certificate of lawful use or development for a proposed loft conversion and roof extension and with associated internal and external works.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Procedural Matter

2. The Council has made an application for costs against the appellant's planning agent. However, as he was acting for the appellant the application for costs will be considered on the basis that it is a claim against the appellant.

Reasons

3. 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.
4. The Council's application is made on the basis that the appeal was both unreasonable and unnecessary, as it was based on inaccurate information and that a subsequent application for a certificate of lawful use or development (LDC) has been granted for the development they wish to undertake.
5. As set out in my appeal decision, the submitted drawings did not demonstrate in a precise and unambiguous way that the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). This was largely due to the failure to provide all relevant external measurements on the drawings or provide a clear calculation of the additional cubic volume.
6. The Council's decision notice did not refer to insufficient or inaccurate information being provided, but instead stated that the proposed development would not comply with paragraph B.1 (d)(i) of Part 1 of Schedule 2 of the GPDO as the resulting additional roof space would exceed 40m³. The Council's calculations involved taking measurements from drawings which were clearly marked "should not be scaled". The appellant sought to challenge these calculations which in isolation would not amount to unreasonable behaviour,

although this would not overcome the fact that insufficient and ambiguous information was provided in the application.

7. Following the refusal of the LDC on the 18 January 2022 and subsequent email correspondence between the Council and the appellant, a new LDC application¹ (the 2022 LDC) was submitted for the same proposed development. As this application included updated drawings that provided additional information including internal floor levels and further external measurements, it could be demonstrated that the proposal was lawful and the LDC was granted on the 13 April 2022.
8. Given that the granting of the 2022 LDC confirmed that the proposed development would be lawful and could commence on site, it is unclear why the appeal made on the 9 May 2022 against the initial LDC application was necessary or how it would serve any practical purpose. I acknowledge the appellant's concern that the 2022 LDC failed to correctly reference the drawings submitted in support of that application. However, an appeal against the initial LDC refusal was not going to result in that issue being rectified. The appeal was therefore, in this regard, unnecessary and the Council has incurred wasted expense.
9. For the above reasons, I find that unreasonable behaviour by the appellant resulting in unnecessary expense, as described in the Planning Practice Guide has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mrs L Sohawon shall pay to the Council of the London Borough of Enfield the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Mrs L Sohawon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Jones

INSPECTOR

¹ Council Reference: 22/00324/CEA