
Costs Decision

Hearing Held on 10 October 2023

Site visit made on 10 October 2023

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Costs application in relation to Appeal Ref: APP/M5450/C/22/3294681 Land at Hive Farm, Hive Road, Bushey WD23 1JQ

- 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 Mr Andrew Murphy for a full award of costs against the Council of the London Borough of Harrow.
 - The Hearing was in connection with an appeal against an enforcement notice alleging the construction of a new dwelling.
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Decision: the application is refused

The submissions for Mr Andrew Murphy

1. The appellant responded to the Planning Contravention Notice (PCN) served by the Council. The appellant used his reasonable best endeavours to provide all the information that he could muster in relation to the breach of planning control that was alleged in the enforcement notice, but the Council nonetheless issued the notice. The appellant cannot understand why the aerial photographs relied on by the Council outweigh the evidence provided by him to the contrary.

The response by Council of the London Borough of Harrow

2. There was a total lack of evidence provided in the appellant's response to the PCN. Based on the information that was provided, it was entirely reasonable for the Council to issue the enforcement notice. The appellant has not identified any unreasonable behaviour on the part of the Council and has not previously made a formal complaint about the Council's behaviour. Notwithstanding that he was legally and professionally represented throughout, it is the appellant who has acted behaved unreasonably.

Reasons

3. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG indicates that one of the aims of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and to follow good practice. The PPG provides examples of unreasonable behaviour which may result in an award of costs against a local planning authority, albeit the PPG makes it clear that is not an exhaustive list.

4. This application for costs is fundamentally misconceived. During the Hearing, the applicant's representative made it clear that an application for costs would only be made if the Council itself made an application for costs. This created the immediate impression that the applicant did not genuinely believe that the Council had acted unreasonably and that this application for costs was merely an attempt to offset any application for costs that may be made by the Council. That impression was confirmed by the fact that in making this application the applicant made no reference whatsoever to the guidance in the PPG relating to the award of costs, and did not identify even a single example of unreasonable behaviour on the part of the Council. This application for costs is entirely without merit, never had any prospect of succeeding and should never have been made.

Paul Freer
INSPECTOR