



Costs Decision

Site visit made on 7 August 2023

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th January 2024

Costs application in relation to Appeal A Ref: APP/M5450/C/22/3300317 13 Canons Drive, Edgware HA8 7RB

- 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 Edwin Solomon for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against an enforcement notice alleging without planning permission, the unauthorised demolition of a front boundary wall to the land in a conservation area ("the Unauthorised Works").
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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. Unreasonable behaviour in the context of an application for an award of costs may be either: procedural, relating to the process; or substantive, relating to the substance of the matters under consideration as part of the appeal. The applicant argues that the Council has behaved unreasonably in a number of regards with respect to both procedural and substantive matters.
4. The applicant is of the view that the Council has failed to set out its substantive case via the submission of a full statement, and despite being given an extension of time to do so as part of the appeal proceedings. The applicant is also aggrieved that they gave an undertaking to the Council not to pursue an application for costs on the condition that the enforcement notice was withdrawn to enable further discussions and negotiations over an acceptable scheme. However, the Council chose not to withdraw the enforcement notice.
5. The applicant also sought a number of procedural assurances from the Council following the issuing of the notice, and to aid their consideration of the submission of a further planning application to remedy the breach of planning control. In their view, they did not receive a satisfactory response. Furthermore, they are of the view that the Council has failed to acknowledge that part of the boundary wall, pertaining to the flank elevation of the former garage building, could be removed via a separate existing grant of planning permission.
6. To support its case at appeal, the Council has provided a completed appeal questionnaire, supporting documents, and its delegated report which together

set out its case for issuing the enforcement notice. It could have provided a further statement of case, but it chose not to, and was under no obligation to do so. Further comments on the applicant's statement were submitted, but these were returned to the Council because they included new material. Nevertheless, I am satisfied that, through the submission of the above cited documentation, the Council has adequately set out its case and made reference to relevant policies and other materials to support its position at appeal. The lack of a full statement of case or final comments from the Council did not materially delay the appeal.

7. Furthermore, the Council was under no obligation to withdraw the enforcement notice and, from the correspondence of 6 June 2022¹, it provided the applicant with a detailed overview of the case and its current position at that time. The Council was entitled to pursue enforcement action and to expect the requirements of the notice to be met within the specified timescales. While the applicant may not have been satisfied with this response, it does not amount to unreasonable behaviour. I also note that the Council drew the applicant's attention to their right of appeal.
8. With regard to the possibility that removal of part of the boundary wall may be granted by an existing planning permission, it can be seen from my decision that there is insufficient evidence to substantiate this claim. In any case, the appeal does not turn on this matter.
9. For all these reasons, I cannot agree that the Council has acted unreasonably in this case. Consequently, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and therefore an award of costs is not justified.

J M Tweddle

INSPECTOR

¹ Email from David Morren (Interim Head of Development Management) to Mr E Solomon, 6 June 2022 at 16:16