



Costs Decision

Site visit made on 22 November 2023

by Jean Russell MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Costs application relating to Appeal A: APP/A5270/C/22/3305618 and Appeal B: APP/A5270/X/22/3305620

Premises known as 9 Carlisle Avenue, Acton, London, W3 7NG

- The costs application is made by Mr Alexander Milcic for a full award of costs against the Council of the London Borough of Ealing.
 - The application is made under sections 174, 195 and 322, and Schedule 6 of the Town and Country Planning Act 1990 and section 250(5) of the Local Government Act 1972.
 - Appeal A was made against an enforcement notice alleging that there had been a material change of use of the land at the rear to the property to self-contained separate residential use.
 - Appeal B was made against the Council's decision to refuse to grant a lawful development certificate for the use of the existing single storey building located in the rear garden...as a self-contained residential unit.
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DECISION

1. The costs application is refused.

PRELIMINARY MATTERS

2. The appellant set out this costs application in paragraphs 3.31 and 3.32 of his statement of case for Appeals A and B. The Council made no response.
3. The Planning Practice Guidance (PPG) provides that where a party to a planning proceeding has behaved unreasonably and, in so doing, directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs¹. The appellant made no reference to the PPG and failed to specify whether he was seeking a full or partial award of costs. I will consider both options.

REASONS

4. The appellant objects that, when he requested the Council's Enforcement report, they sent a redacted copy, so that he did 'not have the full set of information to appeal against [the notice] as is [his] right in planning and humanitarian law'. In my experience, redactions are normally made in accordance with corporate policies designed to ensure compliance with, for example, data protection regulations. But even if the information redacted here did not wholly fall to be described as sensitive or personal, I have no remit to decide whether or not the Council complied with the Openness of Local Government Bodies Regulations 2014.
5. There is also no evidence that parts of the report were blanked out in order to disadvantage the appellant. All that was redacted is the name of the officer

¹ PPG paragraph ref ID: 16-028-20140306

who wrote it, and some text under the headings 'initial site report' and 'investigations and actions'. There was no redaction of the 'expediency assessment', 'conclusion' or discussion of matters such as human rights and the public sector equality duty. I consider that the Council did not unreasonably withhold public information so as to impede the Enforcement appeal.

6. The appellant also makes his costs application on the basis that the Council misapplied the law pertaining to the time limits for taking enforcement action. In my decisions on Appeals A and B, however, I find in favour of the Council on this issue: the change of use in question is subject to the 'ten-year rule' set out under s171B(3), and not the 'four-year rule' set out under s171B(2) of the Town and Country Planning Act 1990.
7. I conclude that the Council did not behave unreasonably when they decided to refuse the LDC application and issue the enforcement notice. The appellant did not incur wasted expense in making Appeal A or B. There is no justification for any full or partial award of costs to the appellant. This application is refused.

Jean Russell

INSPECTOR