



Costs Decision

Site visit made on 17 October 2023

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 May 2024

Costs application in relation to Appeal A Ref: APP/A5270/C/22/3305607 Premises known as 1A & 1B Northcote Avenue, Southall, Ealing UB1 2AX

- 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 the Council of the London Borough of Ealing for a full award of costs against the appellant GK & BS Sidhu Properties Limited.
 - The appeal was against an enforcement notice alleging without planning permission the erection of a first floor infill extension and the raising of the roof height of an existing first floor extension.
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Decision

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

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. Applications for an award of costs may be made on procedural or substantive grounds. The Guidance is clear in setting out the circumstances in which an appellant could be vulnerable to an award of costs against them, stating that the right of appeal should be exercised in a reasonable manner.
4. In this instance, whilst the appellant may have felt that there was 'a genuine prospect' to appeal the notice, thus submitting an appeal under ground (a), the case submitted in support of the ground (a) appeal does not seek to argue that planning permission should be granted for what is being enforced against. Nor does it attempt to rebut the Council's reasons for issuing the notice or seek to argue the merits of an alternative scheme which might be considered to be 'part of those matters' for the purpose of section 177(1) of the Town and Country Planning Act 1990 (as amended).
5. Instead, the appellant's ground (a) grounds champion 'second' and 'third' applications for planning permission for different schemes at the appeal property, albeit which would incorporate some elements of the unauthorised works that the notice and this appeal seek to address. However, at the time of the submission of this appeal, the 'second' application had been refused and was subject of a pending appeal (now Appeal C) whilst no further information has been provided to me regarding the status of the 'third' application.
6. Whilst I find that the appellant's reasoning for bringing Appeals A and B on grounds (f) and (g) to be reasonably made, if not ultimately wholly successful, I cannot reach the same conclusion with respect to the ground (a) appeal. Bringing the appeal forward on ground (a) without advancing a case amounts to pursuing an appeal with no reasonable prospect of success. In this respect therefore, I find that the appellant has acted unreasonably and in so doing has

caused the Council to incur unnecessary expense in relation to the ground (a) appeal on Appeal A.

7. It may well have been the case that there had been dialogue between the appellant, the appellant's agents and the Council prior to the service of the notice. However, from the extracts of that correspondence that has been provided to me, it seems that this has instead extended the process without meaningful progress. I am not persuaded that amounts to the satisfactory submission of a case with regard to the ground (a) appeal and does not therefore overcome my reasoning and conclusions as set out herein.

Conclusion

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's expense in preparing their case with regard to the ground (a) appeal in relation to Appeal A and a partial award of costs is therefore warranted.

Costs Order

9. 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 GK & BS Sidhu Properties Limited shall pay to the Council of the London Borough of Ealing, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in the preparation of the Council's response to the ground (a) appeal in respect of Appeal A only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant¹ (the Council of the London Borough of Ealing) is now invited to submit to GK & BS Sidhu Properties Limited, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

G Robbie

INSPECTOR

¹ The applicant in relation to the application for an award of costs