



Costs Decision

Site visit made on 9 April 2024

by James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29th May 2024

Costs application in relation to Appeal Ref: APP/M1520/C/21/3283330 Land at 231 Benfleet Road, Thundersley, Benfleet, Essex SS7 1QG

- 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 Nalandi Sharma for a full award of costs against Mr Norman Powell.
 - The appeal was against an enforcement notice alleging the unauthorised construction of a part single storey part two storey building.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The original appeal decision (dated 30 June 2023) was quashed by order of the High Court. However, the associated costs decision was not, and therefore remains extant. It follows that this application is limited solely to the redetermined appeal, and relates specifically to matters which post-date the High Court decision.
3. For context, whilst parties in planning appeals normally meet their own expenses, 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. However, the PPG also says:

"It is not anticipated that awards of costs will be made in favour of, or against other interested parties, other than in exceptional circumstances. An award of costs will not be made in favour of, or against interested parties, where a finding of unreasonable behaviour by one of the principal parties relates to the merits of the appeal. However an award may be made in favour of, or against, an interested party on procedural grounds, for example where an appeal has been withdrawn without good reason or where an unnecessary adjournment of a hearing or inquiry is caused by unreasonable conduct. In cases dealt with by written representations, it is not envisaged that awards of costs involving interested parties will arise."

5. As a written representations appeal, a costs award in favour of an interested party will not generally be entertained. Even so, the alleged unreasonable behaviour in this instance is substantive and not procedural, and primarily relates to the conduct of the respondent with regard to planning matters which pre-date the appeal application. As set out in the PPG, a costs award in favour

of an interested party cannot be made in such circumstances, and there is nothing before to suggest any exception to this position is warranted.

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense in respect of the redetermined appeal has not occurred and an award of costs is not warranted.

James Blackwell

INSPECTOR