



Costs Decision

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

**Costs application in relation to Appeal Ref: APP/J1915/X/22/3305228
Penrhyn, London Road, Spellbrook, Hertfordshire CM23 4BA**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr I Hussain for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for construction of garage with brick walls and pantile roof.
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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. The appellant's case is that the Council have not followed the 'Permitted development rights for householders - Technical Guidance' 2019 (the Technical Guidance) in interpreting Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015. He considers that, in not measuring from the patio adjacent to the proposed garage, the Council have not measured its height from the highest adjacent ground level. He states he has incurred unnecessary cost in appealing against the decision, and that the appeal could have been avoided had the Council engaged with the appellant before issuing its decision and applied the correct measurement.
4. In my appeal decision I found that, on the basis of the evidence before me, the appellant had not demonstrated that it was more likely than not that the highest adjacent ground level would have been the adjacent patio. It therefore follows that the Council's view that the patio was not the highest adjacent ground level was not an unreasonable one, and the appellant's application should fail.
5. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

Peter White

INSPECTOR