
Costs Decision

Site visit made on 25 September 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Costs application in relation to Appeal Ref: APP/D1590/C/23/3319016 18 Parkgate, Westcliff-On-Sea, Essex SS0 7NY

- 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 Southend-on-Sea Borough Council for a full award of costs against Dr Alastair England.
 - The appeal was against an enforcement notice alleging without planning permission the replacement of timber windows with UPVC windows.
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Decision

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

Reasons

2. 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The PPG confirms that the aim of the costs regime is, amongst other things, to encourage all involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding
4. The Council have refused two planning applications for the replacement UPVC windows, and a subsequent appeal for the same UPVC windows has already been dismissed. The Council state that the appellant has submitted no additional information under this appeal, and therefore this appeal on ground (a) only has no reasonable prospect of success. As such, the Council claims that this has resulted in unnecessary wasted expense for the Council, dealing with this appeal.
5. It was before the appellant to consider on which grounds to appeal. I note that the appellant is not professionally represented by a planning consultant. Therefore, the appellant is unlikely to be fully aware of the planning legislation and the enforcement appeal process, with particular regard to the various grounds of appeal, and the information required to support each ground.

6. Indeed, the appellant's response to this cost application, which refers to the replacement of the timber framed windows to UPVC windows for a flat being permitted development, demonstrates that there was confusion, and that they do not understand the legislation on permitted development rights. Whilst the appellant's approach may be misguided, I am satisfied that the appellant has not acted unreasonably by lodging this appeal.
7. I also find no substantive evidence to conclude that the Council incurred any additional expense as a result of this appeal. In dealing with the appeal, the Council have provided an appeal statement, which would not have been dissimilar to their previous appeal statement for the last appeal. Therefore, the appeal process has not involved any extra assessment, and I find no substantive evidence that the Council incurred any additional expense as a result of this appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the Council's claim for costs fails.

R Satheesan

INSPECTOR