Planning Inspectorate

Costs Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities & Local Government

Decision date: 12 November 2024

Appeal ref: APP/C5690/C/24/3348368: Application for costs
Land at 36 Loampit Hill, London, SE13 7SW

- The costs application is made under section 250(5) of the Local Government Act 1972 and sections 174 & 322 the Town & Country Planning Act 1990, as amended.
- The application is made by the London Borough of Lewisham against the appellant, Mrs Yogamalar Baskaran (Katpakam Cash & Carry).
- The appeal was made under section 174(2)(g) of the Town & Country Planning Act 1990, as amended.

Summary of decision: **The application fails and no award of costs is being made.**

Reasons for the decision

1. The main basis of the Council's claim for costs is that the appellant acted unreasonably by submitting an unsubstantiated appeal and by not co-operating with the Council in providing information. The Council contend that had the appellant done so, the appeal could have been avoided.

2. An appeal on ground (g) requires the appellant to state how long they require the compliance period to be extended and why. The appeal was received on 18 July 2024 at 12:13. At 12:48 on the same day an e-mail was submitted by the appellant, from a different e-mail to the original one used, stating that "…*I will like 6 months time please*". This was followed up by an e-mail of 12 August 2024 stating "…*Mr Sam Cadman asked me for a time frame which I responded asking for 6 months time on this case. I'm going through a lot right now, running a business isn't easy if you could kindly help me out please*…". While I accept that it would have been helpful if the appellant had elaborated on this, such brevity is not untypical for an appeal on ground (g) only. I consider it reasonable for anyone to deduce from her comments that the appellant is going through a stressful time running her business, which is currently taking up the bulk of her time, and therefore it would be helpful if she were allowed more time to arrange for the necessary works to comply with the requirements of the enforcement notice to be carried out. Whilst brief, this was enough information for me to determine the appeal. Therefore, I am not satisfied the appellant acted unreasonably in this respect.

3. The Council also contend that the appellant was not co-operative in providing information. They point out that the appellant failed to respond to several

communications from the Council to attempt to negotiate an alternative compliance period and to avoid the appeal. In response, the appellant's agent makes much of the fact that the appellant is a first-generation immigrant with a limited understanding of the planning system and its technical jargon, as well as there being language and cultural issues. However, I take the view that submitting an appeal on ground (g) is a very basic task as it only requires the appellant to state the alternative time period they require and why they require it. In any event, as the Council point out, there is plenty of guidance publicly available, such as that provided by the Inspectorate with the appeal form, to explain the appeal process so that it can be easily understood by a layperson. If the appellant felt she needed more help, it was open to her to seek it out from either the Council, the Inspectorate or by appointing a planning agent for example, which she briefly did. Therefore, I do not accept the reasons given by the appellant's current agent for her failure to engage with the Council.

4. That said, while I note the Council's frustration, it appears from the evidence before me that their initial correspondence to the appellant was submitted after the appeal was made, albeit before Start letters were issued. Therefore, even if the appellant had promptly engaged with the Council, it was too late to avoid the appeal being made. Added to which, there was no guarantee if the appellant had responded, an agreement on an alternative compliance period would have been reached. Therefore, while I accept that the appellant's conduct was unhelpful, I cannot be satisfied that it caused the Council to incur wasted or unnecessary expense in the appeal process. Therefore, an award of costs is not justified.

Formal decision

5. For the reasons given above, I cannot conclude that the appellant acted unreasonably, causing the Council to incur wasted or unnecessary expense in the appeal process. No award of costs is therefore justified in the particular circumstances.

K McEntee