

Costs Decision

Site visit made on 18 September 2024

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

**Costs application in relation to Appeal Ref: APP/T5150/C/24/3343734
67A Carlton Avenue East, Wembley HA9 8LZ**

- 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 Brent for a full award of costs against Mr Medhi Ali.
 - The appeal was against an enforcement notice alleging Without planning permission, the material change of use of the premises to a House in Multiple Occupation (HMO).
-

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.

Case for the Council of the London Borough of Brent

3. The Council seeks an award of full costs, and its application is made on both procedural and substantive grounds.

Procedural grounds

4. Initially, the Appellant was professionally represented and made his appeal on the legal grounds under s174(2) (b) and (d) of the Town and Country Planning Act 1990, as well as its grounds (a), (f) and (g). On the basis of the legal grounds, the appeal merited an Inquiry; this was arranged, and the Council prepared and submitted its case within the timetable. Nothing was received from the Appellant. With no explanation given, the Appellant withdrew his legal grounds of appeal. Part of that Inquiry process was that an online Case Management Conference ('CMC') was arranged. The Appellant did not attend this. The Appellant had opportunities to withdraw those legal grounds at an earlier stage, and had he done so there would have been no need for the CMC.

Substantive grounds

5. As a result of the withdrawal of the legal grounds of appeal, the process was changed from Inquiry to Written Representations. At this stage, the Appellant brought no evidence forward. In these circumstances, as he had submitted nothing to substantiate his case, there was no reasonable prospect of the appeal succeeding.

6. Overall, the Appellant's actions were, therefore, unreasonable and this led to unnecessary and wasted expense.

Case for the Mr Medhi Ali

7. Mr Ali made no case against the Council's claim.

Reasons

8. Had Mr Ali informed the Planning Inspectorate (PINS) and the Council earlier of the decision to withdraw the legal grounds of appeal, for which no reason was given, the CMC would not have been required. Furthermore, the Council would not have had to have undertaken work on these grounds. However, that the CMC was held was an administrative error as PINS did not tell the parties that it would not be required, given the withdrawal of the legal grounds. The upshot was that the Inspector did not attend, either. Given his lack of engagement with the process, it seems most unlikely that Mr Ali would have attended anyway, but in the circumstances his actions cannot be held to be unreasonable.
9. However, in all other respects, Mr Ali's actions were unreasonable and led the Council to incur unnecessary costs. No evidence to back up his appeal was provided. For each of the 'Grounds and Facts' in section E of the appeal form, he simply wrote "Grounds of Appeal Statement to follow". None did. Nor did a statement of case to substantiate his grounds of appeal.
10. Although I did not uphold some aspects of the Council's case, given the lack of evidence from Mr Ali, there was no reasonable chance of success in his deemed planning application, nor in his challenges under Grounds (f) and (g).
11. For the reasons given, I find that Mr Ali's actions were unreasonable, and they led to the unnecessary and wasted expense claimed by the Council. However, as I have explained, this award does not include the time and expense related to his non-attendance at the CMC.

Costs Order

12. 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 Mr Medhi Ali shall pay to the Council of the London Borough of Brent, the costs of the appeal proceedings described in the heading of this decision, save for those costs associated with the Case Management Conference; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr Medhi Ali, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Curnow

INSPECTOR

