



Costs Decision

Site visit made on 11 November 2024

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Costs application in relation to Appeal Ref: APP/Q5300/D/24/3349345 36 Raleigh Road, Enfield, EN2 6UB

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Sarah Pennells for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission for an outbuilding – garden studio.
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Decision

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

Reasons

2. The Planning Practice Guidance 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, firstly, that she was incorrectly advised by the Council that she needed to submit a planning application when the outbuilding, as originally designed, would have been permitted development (PD) under Class E of Part 1 of the Town and Country Planning (General Permitted Development) Order 1995, as amended. Secondly, a flood risk assessment was requested and the building had to be re-designed to be elevated on stilts/pins which meant it no longer complied with PD restrictions. Thirdly, that the Council ought to have given significant weight to the PD fallback and accepted that some flood mitigation measures would be better than none.
4. Firstly, the appellant has not provided any evidence of having been given incorrect advice by the Council. It is therefore not clear how, when or by whom the alleged advice was given. In any case, there is no evidence to suggest it was in writing or in response to a formal pre-application enquiry. This matter therefore carries limited weight, especially since the appellant was represented by an agent at the time of the submission of the planning application and that agent ought to have been able to advise on whether an application for a Lawful Development Certificate or a full planning application was required.
5. Secondly, the Council was entitled to assess the application on its merits and to give significant weight to the consultation response of its Sustainable Urban Drainage Systems (SuDs) Officer who found the submitted Flood Risk Assessment to be inadequate in demonstrating that the development would be safe from flooding. It was thus entitled to give substantial weight to this

identified risk and the conflict of the proposed development with national and local planning policy and guidance in respect of flood risk.

6. I have no evidence that the appellant drew the PD fallback position to the attention of the Council through the planning application process nor that the original plans submitted with the application were different from those now before me, which would not comply with PD limitations. Therefore, thirdly, the Council was under no obligation to assess the proposed development for compliance with PD rights
7. By contrast, the submitted appeal statement does make the fallback position clear. I have had regard to this and, for the reasons set out in the appeal decision, give it significant weight. In consequence, I have reached a different decision to that of the Council.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

KE Down
INSPECTOR