



Costs Decision

Site visit made on 22 October 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Costs application in relation to Appeals A and B Refs:

APP/G5750/C/22/3312348 & APP/G5750/C/22/3312349

Garage to rear of 465 Romford Road, Forest Gate, London E7 8AB

- 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 Newham for a full award of costs against Mr A Khan and Mr Mubarak Hussain Valli.
 - The appeal was against an enforcement notice alleging without planning permission, the material change of use of the premises to a car spraying workshop.
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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.
3. The PPG says costs may be awarded where a party has behaved unreasonably and it says unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues and examples are given.
4. The PPG says the right of appeal should be exercised in a reasonable manner. 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.
5. The Council's application for costs relates to procedural matters and is made on the basis that the appellants have behaved unreasonably by making and pursuing an appeal that had no reasonable prospect of success.
6. In response, Mr Khan stated that the application for costs is unfair and unjustified since he has not heard anything since making the appeal in 2022. However, copies of the Council's statement and costs application were sent to the appellants on 10 March 2023, and they were given until 17 March 2023 to make comments.
7. In any event, in enforcement appeals, the onus of proof on the legal grounds is on the appellant. The appellants provided no substantive evidence to support their appeals on ground (c) accordingly the appeals stood no reasonable prospect of success. This was unreasonable, and the Council having prepared a statement therefore incurred unnecessary expense.

8. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a full award of costs is therefore warranted.

Costs Order

9. 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 A Khan and Mr Mubarak Hussain Valli shall pay to the Council of the London Borough of Newham, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr A Khan and Mr Mubarak Hussain Valli, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Felicity Thompson

INSPECTOR