
Costs Decision

Site visit made on 10 January 2025

by Grahame J Kean BA (Hons) Solicitor MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2025

Costs application in relation to Appeal Ref: APP/M4510/C/24/3341264

15 Brandling Park, Jesmond, Newcastle Upon Tyne NE2 4RR

- 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 Mr Anthony Knox for a full award of costs against Newcastle Upon Tyne City Council.
 - The appeal was against an enforcement notice alleging the partial demolition of the boundary treatment at the front of the premises and formation and laying out of a means of an access for a vehicle to the highway.
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Decision

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

The submissions for Mr Knox

2. The costs application was submitted in writing. The following points were made.
 - the enforcement notice should not have been issued as everything on site had planning permission and there was no breach of planning control;
 - the service of the notice was unreasonable on its face;
 - each alternative option given to remedy the breach of planning control was unreasonable as there was an extant permission for the works; and
 - the period for compliance of four months was unreasonable.
3. Such concerns were drawn to the Council's attention before the notice came into effect and they were invited to withdraw it which made the Council's behaviour even more unreasonable. Therefore, a full award of costs was justified.

The response by the Council

4. No response was made by the Council.

Reasons

5. 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. "Unreasonably" is to be understood in its ordinary meaning.
6. The submissions for the applicant essentially rehearse what he saw as the substantive merits of the appeal. In the appeal decision however I found that the

appeal failed: the alleged breach of planning control had occurred as a matter of fact; and there was a breach of planning control since in essence, what was in situ when the notice was issued did not correspond to the previous planning permission in a fundamental way. Namely, that there was still a gap in the hitherto enclosed front boundary which facilitated the creation of a vehicular access where a parked vehicle was still stationed in the front garden.

7. In addition, planning permission was refused for the development as it stood since there was a clear conflict with the development plan for the area, causing harm to the conservation area in which the appeal premises were situated. I found that the alternative options to comply with the notice were clear, reasonable and not excessive in order to remedy the breach of planning control, and that a period of four months was a reasonable period within which to comply with any of those requirements.
8. I am unable to find fault with the way the Council considered the matter.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Grahame Kean

INSPECTOR