
Costs Decision

Inquiry held on 28 May and 11 June 2025

Site visit made on 28 May 2025

by D Boffin BSc (Hons), DipTP, MRTPI, DipBldg Cons (RICS), IHBC

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

Costs application in relation to Appeal Ref: APP/Q3060/C/23/3336069

Millstream Court, Peveril Street, Nottingham, NG7 4AJ

- The application is made under the Town and Country Planning Act 1990 (the 1990 Act), sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Nottingham City Council for a full award of costs against Mr Warjinder Khamba of Together Living 2 Ltd.
 - The Inquiry was in connection with an appeal against an enforcement notice (EN) alleging without planning permission, the removal of the original pitched roof and its replacement with a new flat roof structure. These works include the gable walls being raised in height to support the new roof structure and being rendered to match the rest of the gable wall with the front and rear elevations of the new roof structure being clad with composite cladding in anthracite grey.
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Decision

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

The submissions for Nottingham City Council

2. The costs application was submitted in writing. No additional points were made orally at the Inquiry.

The response by Mr Warjinder Khamba of Together Living 2 Ltd

3. The response was made in writing. No additional points were made orally at the Inquiry.

Reasons

4. 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.
5. The PPG provides non-exhaustive lists of examples of the types of behaviour which may give rise to an award of costs, one of which is *“providing information that is shown to be manifestly inaccurate or untrue”*. The Council contends that the respondent has always known when the operational development, that is attacked by the EN, was substantially completed. The Council considers that the respondent has provided manifestly inaccurate or untrue information given the Council’s contrary evidence. It also considers that the respondent has sought to introduce significant quantities of irrelevant evidence and introduced late evidence in the form of 3 additional witnesses.

6. In my substantive decision on the appeal, I conclude that the combination of; the date of the original complaint; the photographic evidence submitted by that complainant and the Council; the evidence relating to the 2020 application and the appellant's correspondence in October 2023 is compelling contradictory evidence that makes the respondent's version of events less than probable. But that is not at all the same thing as concluding that the information provided by and on behalf of the respondent was manifestly inaccurate or untrue. I have no reason to doubt that the evidence provided by the respondent and his witnesses was given in good faith and represented their memories of the circumstances surrounding the construction of the operational development.
7. I also acknowledge that the respondent will know when the operational development was constructed. However, the ground (d) appeal involves a matter of judgement in respect of the interpretation of planning caselaw regarding when operational development is substantially complete. There is little to indicate that on that basis the ground of appeal had no reasonable prospect of success. Therefore, whilst I have found that the ground (d) appeal fails the respondent did not act unreasonably by submitting this ground of appeal.
8. The procedure to determine the substantive appeal was changed to an Inquiry as it was considered that there was a dispute in relation to matters of fact and evidence was required to be given on oath. At final comments stage of the previous written representation procedure and at the CMC the respondent referred to documentation relating to the conduct of officers of the Council. A large bundle of documents was submitted by the respondent as agreed at the CMC. This related to a request from the respondent that the date of the Inquiry be postponed. The Council provided a response to that request taking into account that documentation. I directed that I would have no regard to that bundle of documents in the determination of the substantive appeal. This is because those documents related to a separate site that is not part of the appeal site and the complaints and subsequent internal investigation are matters that I have no jurisdiction over. I also found that there was no reason to postpone the Inquiry. As a result, even though the documentation was irrelevant to the substantive appeal I do not consider that the respondent was unreasonable in submitting them with regard to the postponement request. Moreover, the appeal was not delayed by the submission of those documents.
9. At short notice before the first day of the Inquiry the respondent informed the Case Officer that 3 additional witnesses would be attending the Inquiry and wanted to give evidence. The Council objected to the late addition of these witnesses. However, it was indicated that they were to give evidence on matters of fact therefore I heard their oral evidence. Whilst they were supporting the respondent the witnesses could have attended as interested third parties. Therefore, I do not consider that the respondent's actions are unreasonable in this respect.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

D Boffin

INSPECTOR