
Costs Decision

Site visit made on 28 June 2016

by Jennifer Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 November 2016

**Costs application in relation to Appeal Ref: APP/K5600/W/16/3142934
41 Norland Square, London W11 4PZ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Giles Hannah for a full award of costs against The Council of The Royal Borough of Kensington & Chelsea.
 - The appeal was against the refusal of the Council to grant planning permission for the amalgamation of ground and lower ground floor flats with the installation of an internal stair and associated internal works to the property.
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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 application for costs was made in a timely manner and the Council responded in writing.
4. The applicant contends that the Council has behaved unreasonably in failing to take into account other appeal decisions which established clear principles regarding the application of policies. The Council provides examples of appeal decisions which it contends demonstrate support for the position it has adopted with regard to application of policy whilst noting that there are also appeal decisions which reach different conclusions.
5. I do not have knowledge of all of the evidence put before Inspectors in relation to other decisions. Whilst I have reached a different conclusion from the Council in respect of the appeal proposal, I find that the Council has provided additional evidence as part of the appeal process relating to their reason for refusal. This evidence includes information with regard to housing type and mix and housing target and supply figures. Given the fluctuating nature of housing targets and supply and the history of previous appeal decisions provided, I consider that the issues in this case were sufficiently finely balanced for the Council not to have acted unreasonably in reaching their decision and in defending their position at the appeal stage.

6. The applicant refers to an application for costs in relation to an appeal¹ where costs were awarded. The specific paragraphs quoted from the costs decision are part of the Inspector's setting out of the applicants' position in that application. However, as referred to above, I do not have all the evidence which was before the Inspector in that case and therefore cannot confirm that the circumstances of that case are directly comparable with those before me. I note that the appeal and costs decision letters² relate to both an application for a Certificate of Lawful Use or Development and an application for planning permission.
7. I am satisfied that in respect of the current appeal proposal the Council's actions do not amount to unreasonable behaviour with regard to preventing or delaying development which accords with the development plan. It is not clear that the appeal could have been avoided and the Council have provided evidence to support their reason for refusal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Jennifer Tempest

INSPECTOR

¹ APP/K5600/W/15/3028100

² As above and APP/K5600/X/153028049