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Your Ref: 15-6477
Our Ref: APP/L5240/X/16/3149162
Date: 3 November 2016

Dear Madam

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 195 & 322
LAND AT FLAT 1 & 1A 59 HALING PARK ROAD, SOUTH CROYDON CR2 6ND
APPEAL BY MS A PEREIRA: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for Communities and Local Government to refer to the Planning Inspector's decision dated of 7 October 2016 to allow the appeal by Ms A Pereira. The appeal was against the Council of the London Borough of Croydon to refuse the grant a lawful development certificate (LDC) for use of a two bedroom flat as a one bedroom flat and studio flat, on land/premises described above.

2. This letter deals with the appellant's application for an award of costs, on procedural¹ grounds, against the Council as made in written correspondence dated 21 September 2016. The Council replied on 26 September 2016. As the costs submissions have been made available to the parties it is not proposed to summarise them.

Summary of decision

3. The formal decision is set out in paragraph 9 below. The costs application fails and no award of costs is being made.

Basis for determining the costs application

4. In LDC appeals (as for appeals in general) the parties are normally expected to meet their own expenses irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense.

5. Section 322 of the Town and Country Planning Act 1990 enables the Secretary of State to award appeal costs against any party which do not give rise to a local inquiry

¹ Although an element of the submitted costs application was also made on substantive grounds the Inspectorate's e-mails of 1 November 2016 informed the parties that this element had been submitted outside the prescribed timescale and that the costs application would therefore only be considered on the basis of the Council's alleged unreasonable behaviour in failing to attend the scheduled site inspection for the appeal.

where it is found that one of the parties to the appeal has behaved unreasonably and the expense incurred by any of the other parties is wasted as a result.

6. The application for costs has been considered in the light of the guidance in the Government's Planning Practice Guidance (PPG), the Inspector's appeal decision, the appeal papers, the written costs correspondence and all the relevant circumstances.

Reasons for the decision

7. All the available evidence has been carefully considered. The application was made following the non-attendance of the Council representative at the scheduled site visit (at the appeal site) arranged for 20 September 2016. In consideration of the costs application particular regard has been paid to paragraph 047 of the relevant part (16) of the PPG.

Conclusions

8. It is noted from the Inspectorate's letter of 26 September 2016 to the parties (sent after the scheduled date for the site inspection), that because of an administrative error the Inspectorate had failed to ensure that the Council were provided with formal notification of the arrangements for the Inspector's site visit. In the light of this the Secretary of State is satisfied that the Council were not aware of the arrangements for the site visit and, in consequence, did not act unreasonably in failing to attend the site visit.

FORMAL DECISION

9. For these reasons the Secretary of State has decided that an award of costs, on grounds of "unreasonable" behaviour resulting in unnecessary or wasted expense, is not justified in the particular circumstances.

10. A copy of this decision letter has been sent to the appellant's agent.

Yours faithfully

John Gardner

JOHN GARDNER
Authorised by the Secretary of State
to sign in that behalf