
Costs Decision

Site visit made on 28 February 2017

by Simon N Hand MA

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

Decision date: 9 March 2017

Costs application in relation to Appeal Ref: APP/K5600/C/16/3159152 17 Cheniston Gardens, London, W8 6TG

- 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 Chris Christodoulou for a partial award of costs against The Council of The Royal Borough of Kensington & Chelsea.
 - The appeal was against the refusal of planning permission for retention of air conditioning condenser unit.
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Decision

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

Reasons

2. The appellant argues that had planning permission been granted for the condenser unit as applied for he would have complied with the recommendation of the noise survey report and solved the noise issue. There would therefore have been no need to issue the noise abatement order, which required him to turn off the condenser and install panel heating at a cost of £6,447, plus electrician's costs.
3. The Council maintain they could not have allowed the application without the acoustic enclosure which was not before them. They did not request details of the enclosure as they considered it would be tantamount to a different application, as they considered the condenser unit was already too large.
4. I have agreed with the Council in the appeal decisions that they were correct not to consider the acoustic enclosure and, although I have disagreed with them on the visual impact of the condenser unit, that does not make their refusal of the application inherently unreasonable. I do not think the appellant was put to any unnecessary costs as a result of the Council's actions and the application for costs is refused.

Simon Hand

Inspector