The Planning Inspectorate

Costs Decisions

Site visit made on 14 March 2017

by R J Jackson BA MPhil DMS MRTPI MCMI

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

Decision date: 29 March 2017

Costs application A in relation to Appeal Ref: APP/M9584/W/16/3145617 Wingate House, 51 Warton Road, London E15 2JY

- 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 David Halpern for a full award of costs against London Legacy Development Corporation.
- The appeal was against the refusal of an application for prior approval under a development order for a change of use for conversion of ground, first, second and third floors from existing B1 office floorspace to form 23 self contained flats.

Costs application B in relation to Appeal Ref: APP/M9584/W/16/3145618 Wingate House, 51 Warton Road, London E15 2JY

- 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 David Halpern for a full award of costs against London Legacy Development Corporation.
- The appeal was against the refusal an application for prior approval under a development order for a change of use for conversion of first, second and third floors from existing B1 office floorspace to form 18 self contained flats.

Decision

Application A

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

Application B

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

Procedural matter

3. These applications relate to two planning appeals relating to prior approvals under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Decisions on these appeals were originally made on 27 July 2016. The applicant had also made two applications for costs which were also decided on the same date. The two appeal decisions were then the subject of High Court proceedings which resulted in the original appeals decisions being quashed.

4. However, there was no application for Judicial Review of the costs decisions. The London Legacy Development Corporation (the LLDC) argues that as the costs decisions were not quashed it is not open to pursue costs applications on

the basis that the "Decision still stands and cannot be re-determined". The applicant notes that the question of whether costs is awarded is dealt with at the conclusion of the process, and thus the costs decision should be based at the date of the re-determined decision.

5. Appeal and costs decisions are separate jurisdictions and separate challenges must be made if the decisions are to be quashed and for there to be a redetermination of the appeals and costs applications. In this case only the appeals decisions were successfully challenged. This means that the original costs decision remains extant and cannot be revisited.

6. As such these applications can only relate to the time between the original decisions, 27 July 2016, and the date of this decision.

Reasons

7. The Planning Practice Guidance (the 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.

8. The applicant has not asserted that the LLDC has behaved unreasonably as regards its actions concerning the redetermination of these appeals. I have seen nothing to indicate that the LLDC acted unreasonably in the period since the earlier decision, let alone that this led to any unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

R J Jackson

INSPECTOR