
Costs Decision

Site visit made on 1 May 2018

by D H Brier BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2018

Costs application in relation to Appeal Ref: APP/T5150/C/17/3180597 71 Victoria Avenue, Wembley HA9 6QA

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Divyakant Patel for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against an enforcement notice alleging the material change of use of the premises to 2 flats.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Points 1 and 2 points of the costs application refer to the Council's handling of a related planning application. As this matter lies outside the purview of the appeal before me, I make no comment on it.
4. Insofar as the matters appertaining to the section 174 appeal are concerned, the main thrust of the appellant's argument focuses upon the nature of the Council's investigation in the run-up the enforcement notice being issued. The Council accept that no Planning Contravention Notice, which might have helped clarify matters, was issued, but this was essentially a matter for their discretion.
5. That said, it seems to me that the enforcement action was not based on a mere whim; the Council's documentation shows that it followed on from an investigation using not only information provided by third parties, but also inspections of the appeal property – externally as well as internally. I am satisfied that professional judgment has been applied to the findings and find that the Council's stance has been backed up by cogent reasoning. I do not equate any of this with unreasonableness on the part of the Council.
6. Although my assessment differs from that of the Council, whom I have found against, it was not because their case was lacking in substance. And, while the appellant refers to the lawful use of the property, there is nothing before me to show that this has been formally acknowledged; there is no indication that

points to either a Lawful Development Certificate having been issued, or that any steps have been taken to obtain one.

7. In the light of the foregoing, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

D H Brier

Inspector