



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 the Council of the London Borough of Brent for a partial award of costs against Mr Divyakant Patel.
 - 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. The application concerns the appeal on grounds (b) and (c). In particular, it focuses upon the appellant's acceptance in his final comments on the appeal that the breach was remedied. It is contended that this contradicts the entire case put forward by the appellant so that the appeal was destined to fail.
4. I have already commented on this point in my appeal decision¹. In the light of my conclusion, which drew upon the Council's assessment that no change of use had taken place when the property was inspected, I am unable to concur with the Council's submission, even though I note that the appellant persists in stating that "*the breach had been remedied*"².
5. I therefore 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

¹ Section 174 appeal decision paragraph 9.

² Email from RERJ Architecture and Planning Ltd dated 1 May 2018.