



Costs Decision

Site visit made on 25 June 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Costs application in relation to Appeal Ref: APP/C5690/W/19/3224472 166 Hither Green Lane, London SE13 6QA

- 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 A Arif for a full award of costs against the Council of the London Borough of Lewisham.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) (as amended) Order 2015 for the development originally described as '*conversion of ground floor shop into C3 residential self-contained flat*'.
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Decision

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

Reasons

2. Planning Practice Guidance ("PPG") advises that parties in planning appeals and other planning proceedings normally meet their own expenses. However, 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. It makes clear that unreasonable behaviour in the context of an application for an award of costs may be either: procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. In this case prior approval was sought to determine whether or not works involving the conversion of part of a building from retail to residential use could be considered permitted development under the relevant parts of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) ("GPDO"). On the evidence before me the Council considered the proposal in accordance with the procedure set out in the GPDO. It provided adequate information to participate in the appeal process. In terms of the application and appeal process, it did not act unreasonably.
4. In terms of the substantive issues, it is argued that the Council have disregarded that the retail unit is vacant, in a worsening state and has been unsuccessfully marketed for well over 2 years. It can be seen from my decision that I found that in light of a lack of robust evidence, I could not conclude that there was not a reasonable prospect of the building being used to provide such retail services. As such, I do not consider that the Council have acted unreasonably in this regard based on the information before me.

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For the reasons set out above and having had regard to all other matters raised, an award of costs is not justified.

D. Boffin

INSPECTOR