



Costs Decision

Site visit made on 19 August 2019

by D H Brier BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Costs application in relation to Appeal Ref: APP/G5750/C/18/3207645 14 Barclay Road, Plaistow, London E13 8SA

- 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 A R Chowdhury for a partial award of costs against the Council of the London Borough of Newham.
 - The appeal was against an enforcement notice alleging the material change of use to a Use Class C4 house in multiple occupation (HMO).
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Decision

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

The Application

2. The costs application encompasses the issue of the validity of the enforcement notice, a matter that forms part of the appellant's case in the section 174 appeal. However, it is accepted that in the event of my finding (as I have done) that the notice is not invalid, a partial award of costs relating to the second and third reasons for taking enforcement action is sought.

Reasons

3. 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.
4. In essence, the claim, which refers to PPG paragraph 049, is based on the premise that reasons 2 and 3 for issuing the notice are not supported by objective evidence. As regards reason 2, at first sight the Council's current stance appears somewhat at odds with the HMO licence issued subsequent to the enforcement notice. However, as different legislation is involved, this is not a matter to which I attach a great deal of weight.
5. As I see it, the Council's case in this respect, which also includes a detailed officer's report is supported by cogent reasoning which is cross-referenced to, and supported by, relevant development plan policies. It is not lacking in substance.
6. The same view applies to reason 3. As is the case with reason 2, the Council's case does not rely solely upon appeal decisions concerning other premises and is based upon sound reasoning. I accept that there is no objective evidence in

the form of, say, noise readings and the like, but there is evidence that the use has given rise to local concern. It may be that the latter has only emanated from one individual, but the Council were reasonably entitled to take this into account, applying judgment and assigning weight accordingly. I do not equate this with unreasonableness.

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