



Costs Decision

Site visit made on 13 August 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Costs application in relation to Appeal Ref: APP/T5150/C/18/3214692 Flats 1 - 6, 266 North Circular Road, Stonebridge, London NW10 0JT

- 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 full award of costs against Mr Ian Brown, Lexton Estates Limited.
 - The appeal was against an enforcement notice alleging Without planning permission the material change of use of the premises to six flats.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 030 of the Government's Planning Practice Guidance (PPG)¹ advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 053 of the PPG² advises that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when the appellant fails to provide adequate evidence to support their case.
4. The Council claim that the appeal was unsupported by evidence and pursued with minimum effort; that it was disingenuous for the appellant to rely on permitted development rights in support of his case and that an appeal was not required to achieve what the planning permission granted by the Council has achieved in any event.
5. Whilst providing little in the way of supporting information, the appellant was able to set out that he considered that the development fell within Planning Use Class C4 - Houses in multiple occupation(HMOs) and that as such the change of use from Use Class C3 was permitted and not therefore subject to planning control.
6. I have set out in the main decision why I consider that the alleged development did not fall into Use Class C4. However I am mindful that the presence of the communal kitchen in the property, provides the opportunity for

¹ Reference ID: 16-030-20140306

² Reference ID: 16-053-20140306

a degree of sharing of facilities akin to an HMO. For this reason, although I did not agree with the appellant's case, to say that it is an unreasonable one, would on balance be going too far.

7. The appellant was able to subsequently make a successful application for planning permission to modify the use of the building. He was entitled to make such an application in spite of the ongoing enforcement appeal proceedings, the two processes being mutually exclusive of one another. It cannot therefore logically be concluded that the lodging of the enforcement appeal was unreasonable on this basis.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Roy Merrett

INSPECTOR