Costs Decisions

Site visit made on 21 October 2019

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Costs application 1) in relation to Appeal Ref: APP/A5840/C/19/3220299
19 Relf Road, Peckham, London SE15 4JS

- 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 Trevor Hadjimina for a full award of costs against the Council of the London Borough of Southwark.
- The appeal was against an enforcement notice alleging the unauthorised use and arrangement of the property as a sui generis use as a House in Multiple Occupation by more than 6 people.

Costs application 2) in relation to Appeal Ref: APP/A5840/X/19/3220310
19 Relf Road, Peckham, London SE15 4JS

- 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 London Borough of Southwark for a full award of costs against Mr Trevor Hadjimina.
- The appeal was against an enforcement notice alleging the alteration to rear pitched roof of the existing building.

Costs application 1) Decision

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

Costs application 2) Decision

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

Preliminary Matters

3. The Planning Practice Guidance (PPG) advises that parties in planning appeals and other planning proceedings normally meet their own expenses. Costs may however 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. The PPG confirms that the aim of the costs regime is, amongst other things, to encourage all involved in the appeal process to behave in a reasonable way and follow good practice.

4. The PPG states that applicants for costs need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense such as in the whole or part of the appeal proceedings.

Costs application 1) Reasons

5. The appellant considers that the issuing of the enforcement notice was

unreasonable and that it directly resulted in wasted expense. I have dismissed the appeal in relation to the enforcement notice and it was not unreasonable for the Council to issue it. In order to challenge the decision the appellant needed to submit an appeal. The appeal has not resulted from unreasonable behaviour by the Council.

6. I did vary the terms of the notice under the appeal under ground (f). Even though the Council had to an extent exceeded the minimum steps necessary to achieve the purpose of the notice, an appeal and the related costs was likely to have been necessary. Having considered all of the submissions, the partial, limited success on ground (f) did not in my view result in any significant additional work or therefore wasted expense.

Costs application 2) Reasons

7. The appeal was lodged on 11 January 2019 and was pleaded under grounds (a), (c), (d) and (f). The fee was not paid for the ground (a) appeal which therefore lapsed. On 21 February 2019, the appellant confirmed that the appeal on ground (d) was not being pursued. Statements were due to be submitted by 27 September 2019 and so the Council should have known that there were no longer appeals on the withdrawn grounds.

8. The appellant's appeal statement did however cover broader issues than just the appeal on grounds (c) and (f) that had been confirmed as going ahead within the 'start date' letter that was sent out on 16 August 2019. In my decision I have included ground (b) although have combined it in the discussion on ground (c) because of the similarity in the circumstances and facts that are relevant to the consideration of these grounds. I have also covered ground (g) as a hidden ground of appeal but again the information regarding that is very limited. With respect to ground (d), because there was a very explicit withdrawal that ground, I did not deal with it although I recognise that the Council did to some extent know what attitude I would take to that. The Council's final comments do cover this.

9. The PPG does require appellants to behave reasonably. The way in which the appeal representations have been submitted were at points difficult to know categorically what case was being made. Although the Council's final comments have covered aspects that were not originally clearly pleaded, it is not apparent in terms of time and expense what degree of additional work was required as a direct result.

10. Whilst the appellant has acted unreasonably in apparently changing his submitted grounds of appeal, the Council has not clearly demonstrated that this has resulted in additional work to defend their case.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated with respect to either of the costs applications.

A Harwood

INSPECTOR