The Planning Inspectorate

Costs Decision

Site visit made on 27 May 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2020

Costs application in relation to Appeal Ref: APP/Q5300/W/20/3246168
Ground Floor Front, 231 Whittington Road N22 8YW

- 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 Bard (Amber Investment Ltd) for a full award of costs against the Council of the London Borough of Enfield.
- The appeal was against the refusal to give prior approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of part of the ground floor from retail (A1) to 1 x 1-bed self-contained flat (C3).

Decision

1. The application for the award of costs is dismissed.

Reasons

2. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has both behaved unreasonably *and* thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The applicant states that this application for costs is because the Council behaved unreasonably for a number of reasons. This includes preventing or delaying development which should clearly be permitted, failing to substantiate reasons for refusal and providing vague, inaccurate and unsupported assertions about the proposal's impact which are unsupported by any objective analysis.

4. As set out in my decision, the Council failed to issue a decision within the relevant 56 day period due to imposing stricter standards for plan drawing than are evident within the permitted development regulations. I find this to be unreasonable behaviour.

5. However, the applicant was clearly aware that the Council's actions had resulted in the deemed giving of prior approval. Indeed, he wrote to the Council to this effect on 9 January 2020. There are other options that the applicant could have explored to seek to clarify the lawfulness of this development. Nevertheless, he chose to do so through the appeals process, where he provided evidence concerning the matters within the Council's decision notice as well as the relevant 56 day period.

6. Consequently, I am not persuaded that the appellant was forced into this appeal as a result of the Council's approach to this scheme. Rather, understanding that the development was lawful under the provisions of the

permitted development regulations, he simply sought to demonstrate this through this particular process. I therefore find that there was no unnecessary or wasted expense as a result of the Council's unreasonable behaviour. As such, the second identified test within the PPG is not met.

Conclusion

7. Taking all of the above into account, I find that the Council acted unreasonably in its assessment of this proposal. However, this behaviour did not result in unnecessary or wasted expense. Consequently, in this case, an award of costs is not justified.

M Heron

INSPECTOR