



Costs Decision

by M Madge DipTP, MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2020

**Costs application in relation to Appeal Ref: APP/T5150/C/19/3219925
31 Ballogie Avenue, London NW10 1SU**

- 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 Lieb Levison of YCL Properties Ltd.
 - The appeal was against an enforcement notice alleging a material change of use of premises to six flats and erection of a single storey rear extension.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that 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.
3. The PPG makes it clear that an appellant is at risk of an award of costs if, amongst other things, they fail to cooperate in the timely provision of an appropriate level of evidence, prolongs proceedings by introducing new grounds of appeal or issues and withdraws an appeal without good reason.
4. The applicant submits that the appellant acted unreasonably as the development is not in accordance with the development plan, inaccurate evidence was provided, and relevant matters were concealed. In addition, the appellant continued with the appeal despite the grant of planning permission for the "change of use of premises from unauthorised flats to a 5 room/5 person house in multiple occupation and partially retrospective permission for the rear extension proposed with alterations" (the 2019 PP).
5. The appellant responds that the appeal on Grounds (a), (b) and (c), were withdrawn from consideration on 22 May 2020, one month before statements were due. In any event, an appeal on ground (a) would not have been unreasonable as it could have succeeded for part of the development. Furthermore, if the 2019 PP is not implemented the notice will continue to take effect.
6. In this case, the appeal was lodged on grounds (a), (b), (c), (f) and (g). The applicant's submission predominantly relates to the grounds (a), (b) and (c) elements of the appeal.
7. The ground (a) appeal lapsed as the relevant fee was not paid, as confirmed in the Council's email of the 4 April 2019. I accept that there was a delay between the 2019 PP being granted on 10 April 2019 and the withdrawal of grounds (b)

and (c) on the 22 May 2020. The withdrawal letter was however submitted in a timely manner after the appeal start date letter was issued on 19 May 2020. Given that the submission date for the Council's statement was the 30 June 2020, I find that the applicant was made aware that the appeal was only proceeding on grounds (f) and (g) in good time and they would not have been put to any unnecessary or wasted expense as a result.

8. The implementation of the 2019 PP requires internal and external works to be carried out to the premises. As a result of the 2019 PP some, but not all, of the requirements set out in the notice would cease to take effect. Furthermore, the requirements of the notice would not be amended to reflect the 2019 PP. Given the extent of the internal works, I have found that they will have implications for residents, and subsequently that the time period for compliance should be extended. I find that it was reasonable for the appellant to continue with the enforcement appeal in respect of grounds (f) and (g).
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Madge

INSPECTOR