



Costs Decision

by **M Madge DipTP, MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th August 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 Mr Lieb Levison of YCL Properties Ltd for a full award of costs against the Council of the London Borough of Brent.
 - 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.
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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 which 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 a Council is at risk of an award of costs if, amongst other things, they introduce fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
4. The applicant submits that the Council acted unreasonably as their appeal statement was written with the aim of misleading the appeal process or in order to substantiate their cost claim. Furthermore, the Council wrongly state that, after the granting of planning permission (ref: 18/4850) for the house in multiple occupation (HMO) (the 2018 PP), "there is no need to evict any tenants or do any works" and that "only very minor works were required, which involved no disruption to occupiers". The Council has failed to have proper regard to the approved plans.
5. The Council responds that the 2018 PP means that, having regard to section 180 of the Act, there is no longer a requirement to reconfigure the internal layout of the dwellinghouse. Furthermore, there is no need for residents to be evicted.
6. In this case, the appeal proceeded on grounds (f) and (g), ground (a) having fallen away and grounds (b) and (c) having been withdrawn. The Council's appeal statement clearly and succinctly set out their case for issuing the notice and highlighted that, in their opinion, the 2018 PP superseded the requirements of the notice. I found nothing misleading or unnecessary in their statement and the 2018 PP was of relevance to the determination of the appeal.

7. The 2018 PP was not approved until after the notice had been served and as such it could not have been an influencing factor on the lodging of the appeal. The appellant provides no evidence to demonstrate what additional expense the Council's evidence relating to the 2018 PP put them to in respect of the appeal.
8. 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