The Planning Inspectorate

Costs Decision

Site visit made on 10 August 2020

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Costs application in relation to Appeal Ref: APP/G5180/C/20/3246504
Land at Shaftesbury House, 20 Tylney Road, Bromley BR1 2RL

- 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 Bromley for a full award of costs against the Harrison Group of Companies.
- The appeal was against an enforcement notice alleging the material change of use of the ground floor offices within Shaftesbury House located at the rear of the building from office use (Class B1) to residential use (Class C3). The ground offices have been sub-divided into a total of 5 separate units, 4 of which are allegedly being used as separate residential units, known as Flat A, C, D and E.

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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.

3. 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, both in terms of timeliness and in the presentation of full and detailed evidence to support their case. The PPG states that one example of unreasonable behaviour which may result in an award of costs against an appellant is providing information that is shown to be manifestly inaccurate or untrue.

4. The Council claims that the appellant acted unreasonably in terms of both procedural and substantive matters when proceeding with the grounds (b) and (c) appeal, given that the only facts to support the grounds of appeal amounted to the following sentence in their appeal form:"bromley business rates will confirm that this property is entirely business use only". Therefore, the Council consider that they have spent considerable time and incurred wasted expense in dealing with the ground (b) and (c) appeal, which had little chance of success.

5. It was before the appellant to consider on which grounds to appeal. Whilst the appellant may have been misguided with regards to their supporting evidence, they have nevertheless provided some information on this matter in their appeal form. Although, it will be seen from my decision that I disagree with the appellant on this matter some, albeit, limited evidence has been put forward to support the appellant’s claim. Therefore, the appellant’s claim is not quite unsubstantiated. I also note that the appellant is unrepresented, and therefore is unlikely to be fully aware of the appeal process, with particular regard to planning enforcement and all of the grounds of appeal when dealing with an enforcement notice. It follows that I am satisfied that the appellant has not acted unreasonably by making this claim.

6. I also find no substantive evidence to conclude that the Council incurred any additional expense as a result of this appeal. In dealing with the appeal on grounds (b) and (c), the Council have provided photographs of their site visit and Officer’s account of their investigation. Therefore, the appeal process has not involved any extra assessment, and I find no substantive evidence that the Council incurred any additional expense as a result of this appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the Council’s claim for costs fails.

R Satheesan

INSPECTOR