
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/19/3243365
Land at 2A Pembroke Road, Bromley BR1 2RU also Known as Land at the
First Floor Level, 24 Tylney Road, Known as Hope House, 2A Pembroke
Road**

- 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 against for a full award of costs against Bromley Massage and Therapy Centre
 - The appeal was against an enforcement notice alleging without planning permission, the Material Change of Use of the part of the first floor to a D1 non-residential institution (for the provision of any medical or health service) a massage and therapy business.
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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 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 ground (c) appeal, in so far as no substantive evidence has been submitted to support this ground of appeal. Therefore, the Council consider that they have spent time and incurred wasted expense in dealing with the ground (c) appeal, which had little chance of success.
5. It was before the appellant to consider on which grounds to appeal. Whilst the appellant has failed to substantiate their claim that there has not been a breach of planning control, I note that the appellant's agent is not a planning

consultant or solicitor. Therefore, the appellant's agent is unlikely to be fully aware of the planning enforcement appeal process, with particular regard to the grounds of appeal, and the information required to support each ground. Indeed, the appellant's response to this costs application, which refers to an appeal on a different site nearby site and the use of the site for residential purposes, demonstrates that there was confusion, and that they have not fully understood the appeal process. Whilst the appellant's approach may be misguided, I am satisfied that the appellant has not acted unreasonably by lodging this appeal.

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 ground (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