The Planning Inspectorate

Costs Decision

Site visit made on 18 August 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2020

Costs application in relation to Appeal Ref: APP/T5150/X/20/3244211
154A Harlesden Road, London NW10 3RE

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Ms. Ebele Muorah for a full award of costs against the Council of the London Borough of Brent.
- The appeal was against the refusal of a certificate of lawful use or development for: Change of a dwelling house into two flats.

Decision

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

Reasons

2. The Planning Practice Guidance 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 appellant suggests the Council should have given weight to similar development in the area and refers to a lawful development certificate (LDC) application for 9 Cross Way, which was allowed on appeal[1] and which the appellant say is an exact replica of the LDC application which is before me. But there is no evidence that the facts in each case are the same and so it does not follow that the Inspector's findings on 9 Cross Way apply to the LDC before me.

4. The appellant states the Council did not determine if the current use had taken place for the requisite amount of time. However, it was not necessary for the Council to do this as pursuant to section 191(2)(b) of the 1990 Act they believed that the use contravened a requirement of an enforcement notice then in force. That being the case, the use would have not been lawful irrespective of how long it had taken place.

5. In my appeal decision I have found an enforcement notice was not in force at the time the lawful development certificate application was made. This is because the appeal decision which purported to uphold the enforcement notice has been remitted to the Secretary of State for redetermination. However, the Council's decision on the lawful development certificate application was issued prior to this. So the Council reasonably believed an enforcement notice was in force at the time it made its decision on the certificate of lawfulness.

[1] APP/T5150/X/3199256 dated 22 August 2019

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

L Perkins

INSPECTOR