The Planning Inspectorate

Costs Decision

Site visit made on 3 August 2020

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13th November 2020

Costs application in relation to Appeal Ref: APP/T5150/C/3214372
5 Clifford Way, London, NW10 1AP

- 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 partial award of costs against Mr Mohammed Reza Hajyfathaliyan.
- The appeal was against an enforcement notice alleging material change of use of the property to three flats.

Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs can only be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The Applicant is seeking a partial award of their costs due to:

    - the failure of the Respondent to attend the site visit on 9 March 2020; and
    - the inclusion of the appeal on ground (b) at such a late stage (by email dated 13 March 2020).

4. The Respondent and his agent have both stated that they did not receive the notification about the site visit on 9 March although it was sent. In the absence of any evidence to the contrary, I have no reason to doubt the Respondent's explanation who has not therefore acted unreasonably by failing to attend.

5. The Respondent provided additional information regarding the ground (b) appeal at the request of the Planning Inspectorate by email dated 4 March 2020. This request required a response by 6 March 2020. The Respondent did provide contradictory evidence during the course of the appeal so that the potential of the hidden ground (b) appeal was not initially evident and he provided his response regarding the ground (b) appeal after the date requested by the Planning Inspectorate. It was not unreasonable for the ground (b) to be added at this stage in the appeal as it would have had to be dealt with as a hidden ground in in the evidence in any event. The Respondent's late response has not caused unnecessary or wasted expense as if this ground had been

raised earlier, or the Respondent had replied by 6 March 2020 as requested, the Council would have still had to address it.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated and an award of costs is therefore not justified.

Zoë Franks

INSPECTOR