
Costs Decision

Site visit made on 27 October 2020

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Costs application in relation to Appeal Ref: APP/Z5060/C/20/3255082 195 Morley Road, Barking IG11 7DH

- 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 Aurimas Baura for a full award of costs against the Council of the London Borough of Barking & Dagenham.
 - The appeal was against an enforcement notice alleging the unauthorised subdivision of a dwelling into multiple self-contained units of accommodation.
-

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 should only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant contends that the notice was issued groundlessly, with the Magistrates' Court having dismissed prosecution proceedings against the appellant alleging a failure to comply with an earlier notice ("the 2018 notice") issued on similar terms to the present notice. The appellant contends that the Court was satisfied that the property was in single use. As no alterations have been carried out to the property since the Court proceedings, the appellant considers that the issuing of the present notice amounts to an abuse of process.
4. It follows from my reasons on the related appeal decision that I do not agree with the appellant's contentions. The documents placed before me do not show that the Court found the property to be in single use. The present notice is issued in different terms from the 2018 notice, alleging 'multiple' units of accommodation rather than the more specific three that were the subject of the 2018 notice and the subsequent Court proceedings.
5. The relevant date of the alleged offence for the prosecution proceedings was in January 2019, prior to the Council's site visits in March and July of that year. Therefore the absence of any alterations to the property since the Court proceedings of February 2020, or since the earlier date of July 2019 when the Council last visited, does not provide grounds for finding that there has been an abuse of process, or unreasonable behaviour, by the Council. For the reasons set out in my substantive decision in relation to the appeal, the Court's finding

that in January 2019 there had not been a failure to comply with the 2018 notice alleging subdivision into three units is not inconsistent with the Council's subsequent decision, following site visits in March and July 2019, to issue a further notice alleging the subdivision into 'multiple' units.

6. Therefore I do not consider that the Council's issuing of a second enforcement notice constituted unreasonable behaviour and it follows that the application for an award of costs is refused.

Laura Renaudon

INSPECTOR