



Costs Decision

Site visit made on 17 December 2020

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 January 2021

Costs application in relation to Appeal Ref: APP/N5660/X/20/3249792 68 Harpenden Road, London, SE27 0AF

- 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 Messrs Anton & Stefan Samson Baskerville for a full award of costs against the Council of the London Borough of Lambeth.
 - The appeal was against the refusal of a certificate of lawful use or development for the use of the property as two self-contained residential flats.
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Decision

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

Reasons

2. The appellants argue that the Council were unreasonable in refusing the application for an LDC as they had no evidence of their own to counter the appellants' statutory declarations and photographs. The Council relied on the fact the occupants of the two flats were members of the same family and so, by definition, did not occupy them as independent units. The other alleged failures of the council essentially stem from these basic misunderstandings.
3. I agree with the Council that it is not unreasonable for them to dissect the statutory declarations provided, especially where lay-people are using phrases such as self-contained flat which have a specific meaning when determining an LDC application. Indeed what a self-contained flat is has been subject to various court cases and is far from obvious to a non-specialist. I had no reason to doubt the statutory declarations, but just because they thought the property had been two flats does not mean that it was used as two separate dwellings so as to satisfy an application for an LDC.
4. The appellant appeared to ignore the well known Uttlesford case which allows for a building (or part of a building) to be physically self-contained but used in such a way that a new planning unit is not formed and it remains ancillary. That was the essence of the Council's case.
5. However, this all ignores the fact that the Council did have hard evidence in the form of the 2011 application that the property was not then being used as two flats, which in itself cast doubt on the accuracy of the statutory declarations. The photographs and evidence which clearly showed subdivision into 2 properties were all of recent vintage and there was nothing specific from the beginning of the 4 year period, hence the Council's request for some documentary evidence. In the event I was persuaded by the appellants'

evidence but that is not to say the Council were unreasonable in not being. Consequently, I do not consider that unreasonable behaviour has been demonstrated and an award of costs is not justified.

Simon Hand

Inspector