

Costs Decision

Site visit made on 12 November 2020

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 4 February 2021

Costs application relating to Appeal Ref: APP/T5150/C/20/3245508 2 Bridge Road, London NW10 9BX

- The application is made by the Council of the London Borough of Brent under the Town and Country Planning Act 1990, sections 174 and 322 and Schedule 6, and the Local Government Act 1972, section 250(5), for a full award of costs against Westmark Ltd c/o Choice Homes .
 - The appeal was against an enforcement notice alleging “the material change of use of the premises from two flats to a House in Multiple Occupation (HMO) and flats”.
 - The appeal succeeded on ground (b) (that the matters stated in the allegation had not occurred) and the enforcement notice was quashed.
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Costs decision

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

Reasons for the costs decision

2. The Government’s Planning Practice Guidance (“the Guidance”) indicates that the parties to an appeal are expected to behave reasonably to support an efficient and timely process and that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 3. The Council maintained in their costs application that the appeal was wholly without merit, because it contradicted other formal contemporaneous submissions and raised specious arguments in relation to the difference between HMOs and flats and the nature of cooking facilities. In my appeal decision, I did not find the Council’s argument about other submissions to be persuasive and I accepted the appellants’ case about the difference between HMOs and flats and the nature of cooking facilities, after taking into account the recent appeal decision APP/T5150/C/19/3241370 and the Council’s unsuccessful High Court challenge to that appeal decision in *Brent LBC v Secretary of State and Reiner* [2020] EWHC 3620 (Admin).
 4. My appeal decision demonstrates that the appellants exercised their right of appeal in a reasonable manner and that the appeal had a reasonable prospect of succeeding on ground (b).
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5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and that an award of costs is not justified.

D.A.Hainsworth

INSPECTOR