
Costs Decision

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2020

**Costs application in relation to Appeal Ref: APP/U5930/X/20/3260252
14 Harvey Road, Leytonstone, London E11 3DB**

- 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 Kavitha Knight of Samuel Raj for a full award of costs against the Council of the London Borough of Waltham Forest.
 - The appeal was against the refusal of a certificate of lawful use or development for "Class C4: House in Multiple Occupation, shared house occupied by 3-6 unrelated individuals sharing basic amenities".
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Decision

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

The submissions for the applicant

2. The applicant submits that the appeal could have been avoided. This is because there were shortcomings in the Council's consideration of the application, which amounted to unreasonable behaviour and led to wasted expense in pursuing the appeal.

The response by the Council

3. In determining the application, the Council paid particular attention to whether the applicant's evidence was sufficiently precise and unambiguous. It demonstrated that it was not and, as such, refused the application.

Reasons

4. The Planning Practice Guidance (the Guidance) advises that costs may only be awarded against the party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense or wasted expense in the appeal process.
5. I find the Council's approach to the evidence was thorough, bearing in mind their duties and responsibilities, as highlighted by the applicant. They paid due regard to *Gabbitas*¹ and the Guidance, as set out in the officer's report. The application was accompanied by the evidence but there was no analysis of the evidence. As such, the applicant appears to have overlooked the provisions set out in the Guidance "provided the applicant's evidence alone is sufficiently precise and unambiguous (my emphasis)".

¹ *Gabbitas v SSE & Newham BC* [1985] JPL 630

6. I found, as did the Council, that the evidence was not sufficiently precise and unambiguous. The burden of proof rests on the applicant and there is no obligation on the Council to obtain evidence from neighbours or any other source.²
7. The Guidance states “It may however be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application (my emphasis).” It would appear that the Council decided otherwise and relied on information held internally, such as the issue of the HMO licence, to assist with the determination of the application.
8. Whilst the applicant criticises the Council's approach in “picking holes” in the applicant's case, I find on the contrary, that this is evidence of the Council's orderly consideration of the documents and facts. For example, it is not unusual to tabulate evidence from bank statements, as the Council did, as this often assists with understanding the timeline of events.
9. I agree with the applicant that it is not always necessary to provide statutory declarations or other sworn documents. Notwithstanding this, whatever the format or content of the evidence to support the application, it should be presented so that it is apparent it is sufficiently precise and unambiguous. Despite the applicant's criticisms, I find their application for a full award of costs is not made out.

Conclusion

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

D Fleming

INSPECTOR

² Planning Practice Guidance paragraphs 006 and 008