



---

## Costs Decision

Site visit made on 30 July 2021

**by A M Nilsson BA (Hons) DipTP MRTPI**

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

**Decision date: 20<sup>th</sup> August 201**

---

### **Costs application in relation to Appeal Ref: APP/Y5420/W/20/3265099 318B Mount Pleasant Road, Tottenham, London N17 6HA**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Yakov Levy for a full award of costs against the Council of the London Borough of Haringey.
  - The appeal was against the refusal of planning permission for conversion of the existing first floor flat into two separate units consisting of a one-bedroom self-contained flat, and a three-room HMO, including the conversion of the loft; - Dormer extension to the rear; and - Insertion of three roof lights to the front (revision to the existing planning permission HGY/2018/0466).
- 

### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant is of the view that the Council acted unreasonably as their decision was not consistent with their internal HMO Team. As the Council have alluded to, the processes and procedures of their HMO Team are separate from the planning process. As such, in the event that there is misalignment between the Council acting in its role as local planning authority and in administering HMO licences in line with housing policy does not amount to unreasonable behaviour.
5. My attention is drawn to an appeal decision<sup>1</sup> where the applicant highlights the Inspector found that the space standards for HMO's are set by the Council HMO

---

<sup>1</sup> APP/Y5420/W/18/3213394

guidance and the Inspector was satisfied that the proposals accorded with the guidance. Although I do not have full details of the case in order to give it significant weight, the Inspector did acknowledge that the proposal accorded with the guidance but did go on to consider, in the first instance, the proposed development against the relevant development plan policies.

6. Either way, the weight to be given to either the consultation response from the Council's HMO Team or the guidance is a matter of planning judgement. I do not consider that the Council acted unreasonably in making a decision against the development plan, having regard to other material considerations, despite my finding to the contrary.
7. The applicant considers that the policies on which the Council made their decision are not relevant to the proposed development of an HMO. One of these policies which the applicant refers to is 3.5 of the London Plan 2016. As the London Plan 2016 has now been replaced, it has no weight in decision making. Policy 3.5 does however refer to 'all housing development' which would include the appeal proposal. Therefore, although the spacing standards to which it directs may not apply to HMO's the policy was relevant.
8. Regardless, the Council's case is clearly set out as to why they considered the proposed development to be unacceptable. Fundamentally, it did not hinge on the size of rooms, despite some concern being expressed in relation to the size of the shower rooms. The policies that are most relevant to the appeal require the consideration of design and amenity in decision making, which can include matters pertaining to outlook and amenity space as specified in the Council's reason for refusal.
9. I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the development which justified its decision. The applicant had to address those concerns in any event.
10. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense. I find nothing to suggest that a decision was not reached on the basis of the planning merits of the development.

## **Conclusion**

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Therefore, a full award of costs is not justified.

*A M Nilsson*

INSPECTOR