Costs Decision

Site visit made on 31 August 2021

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2021

Costs application in relation to Appeal Ref: APP/W5780/C/20/3256306
Land at and rear of 4 Grove End, South Woodford, London E18 2LE

- 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 Stanoak (Grove End) Ltd for a full award of costs against the Council of the London Borough of Redbridge.
- The appeal was against an enforcement notice alleging, without planning permission, the conversion of an outbuilding to the rear into habitable accommodation and integration into HMO at no. 4 Grove End.

Decision

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

Background

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Reasons

3. The application relates in part to the actions of the Council in relation to the pursuance of enforcement action. The Guidance states that local planning authorities must carry out adequate prior investigation and that they are at risk of an award of costs if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate.

4. The applicant argues that the Council acted unreasonably in issuing the notice because it did not properly consider the principle of the planning unit. It will be seen from my Decision Letter that I consider that the arguments made by the Council do not contradict the applicants' contention that the house and the outbuilding constituted a single planning unit.

5. However, I concluded that the appeal under ground (c) should fail because it has not been shown that the change of use amounted to permitted development even if the house and outbuilding constituted a single planning unit. It follows that an act of development has taken place for which planning permission was needed, consequently the Council had grounds for serving the notice.

6. Insofar as the justification for serving the notice is concerned the Council has not acted unreasonably.

7. The applicants are also seeking costs on the basis that the Council refused to share their report which would have justified the notice being issued when they were considering making their appeal. The Guidance states that behaviour by a local planning authority which may give rise to a procedural award of cost against it includes lack of co-operation with the other party and delay in providing information.

8. The applicants say that they requested a copy of the enforcement report but were advised by the Council that the report was unavailable for viewing or that there was no such report. They considered that as the report had not been released to them, it would not be submitted by the Council as part of its case. The report was subsequently provided by the Council when it submitted its appeal questionnaire.

9. The Council has not responded to the applicants' comments regarding the release of the enforcement report to them. Whilst the full wording of the report may have been useful to the applicants there is no requirement for the Council to provide it when serving the notice. The notice is the subject of the appeal and not the contents of the enforcement report. In any case the applicants have had sight of the report and have had the opportunity to comment on its contents as part of their submissions.

10. There is no evidence to counter the applicants' argument that the Council refused to provide the enforcement report. However, it has not been demonstrated that its failure to do so amounts to lack of co-operation on the part of the Council either.

11. Drawing these points together, it has not been shown that the Council acted unreasonably in not providing the enforcement report to the applicants when requested to do so.

Conclusion

12. For the reasons set out above I do not find that the Council has acted unreasonably. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Sarah Dyer

Inspector