The Planning Inspectorate

# Costs Decision

Site visit made on 14 February 2022

**by Mrs H M Higenbottam BA (Hons) MRTPI**

**An Inspector appointed by the Secretary of State**

**Decision date: 4 April 2022**

**Costs application in relation to Appeal Ref: APP/N5090/C/19/3226650**
**14 Golders Manor Drive, London NW11 9HT**

- The application is made under the Town and Country Planning Act 1990, sections 174, 175(7) and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by the Council of the London Borough of Barnet for a partial award of costs against Mr Jacob Gertner.
- The appeal was against an enforcement notice alleging without planning permission the conversion of the property into one self-contained unit in the rear extension and a sui generis HMO formed from the remainder.

## Decision

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

## Reasons

2. The Planning Practice 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.

3. The Council consider the appellant was unreasonable behaviour in resistance to, or lack of co-operation with the Council in providing information, delay in providing information or other failure to adhere to deadlines and the late withdrawal of the inquiry procedure. This led to unnecessary or wasted expense in the appeal comprising instructing a barrister and their review of the Council's evidence and the officer's preparation of evidence for an Inquiry now aborted

4. The appellant changed agent's during the course of the appeal. The appellant accepts that the first agent failed to comply with the appeal timetables for the Inquiry. In relation to the request for the Inquiry, the appellant states that Council did not raise any objection to the Inquiry procedure. The ground (d) appeal was reasonably made and the appellant reviewed their case. The appellant requested the Council agree to not making a claim for costs which was declined, albeit the scope of the costs claim was discussed. The appellant states that the Council should have considered withdrawing the EN given its questionable validity. Failing to adhere to the Inquiry timetable in relation to submission of ev

5. While I accept the first agent failed to comply with the timetable for submission of evidence and general procedural matters, the Inquiry was originally scheduled for December 2020. At that time all parties were dealing with the pandemic and significant changes to working practices. The appellant states

the ground (d) appeal was withdrawn due to not being able to locate previous tenants to give oral evidence. It is not clear whether this was due to the pandemic or other matters.

6. Management of the appeal significantly changed on the appointment of a new agent by the appellant. The new agent attended a case management conference (CMC) in December 2020. The appellant's grounds of appeal were reviewed following that CMC and all but the ground (g) appeal were withdrawn before January 2021.

7. The Planning Inspectorate then reassessed the appeal and the procedure was changed by it, from Inquiry to Written Representations.

8. In the light of the exceptional circumstances of the pandemic and my decision on the appeal, which is to quash the Enforcement Notice due to the failure of the Council to serve it as required by statute, I consider that the appellant did not act unreasonably.

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

*Hilda Higenbottam*

Inspector