



Costs Decision

Site visit made on 14 March 2022

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2022

Costs application in relation to Appeal Ref: APP/T5150/X/21/3280741 776 North Circular Road, Neasden, London NW2 7TD

- The application is made under the Town and Country Planning Act 1990 ('the Act'), sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Miriam Becher for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was against the refusal of a certificate of lawful use or development for change of use to a small HMO (Use Class C4).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Awards against a party may be either procedural or substantive.
3. The PPG advises that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. Examples of unreasonable behaviour include lack of co-operation with the other party, delay in providing information and deliberately concealing relevant evidence at appeal. The applicant states that the Council has failed to engage with them prior to and throughout the appeal process.
4. The Council set out in a decision letter, at Schedule B, its reasoning for refusing the application. While the letter does not specifically address the points made by the applicant regarding section 173A of the Act, the applicant can have been in no doubt that the Council considers the steps set out in the enforcement notice have not been complied with. The Council's delegated report provides further clarity on this matter, by stating that partitions have not all been removed.
5. The applicant's agent states that they wrote to the Council on 2 August 2021 requesting a response by Thursday 5 August (2021). However, by the applicant's own admission, an officer of the Council responded to the query. While it would have been helpful for the Council to clarify its position with respect to the provisions of section 173A, I consider its inclusion within the decision letter, delegated report or subsequent correspondence, is unlikely to have altered the applicant's position on this matter.
6. Although the Council raised the issue of delegated powers at appeal stage, the appeal did not turn on this. Whether or not the officer who wrote the email on 6 April 2021 had delegated powers to waive or relax the requirements of the notice, I did not find the Council was exercising its powers under section

173A(1) of the Act. Even if the Council had set out its position in this regard, the dispute would have remained, and the appeal would not have been avoided. Thus the applicant has not incurred wasted expense.

7. The PPG advises 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 applications. As will be seen from the appeal decision, I have agreed with the Council that the proposed development would not have been lawful and so I cannot agree that the Council was unreasonable in refusing the application.

Conclusion

8. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense, as described the Planning Practice Guidance, has not been demonstrated.

M Savage

INSPECTOR