



Costs Decision

Site visit made on 9 May 2022

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Costs application in relation to Appeal Ref: APP/ D5120/W/21/3279640 25 High Street, Sidcup DA14 6ED

- 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 A Essa of Mercury Properties Ltd for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for change of use part of solicitors offices to residential A2 – C3.
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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, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant claims that the Council did not apply itself to understand the matters under application or the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO); so putting the applicant to unnecessary costs in appealing the decision and delaying the delivery of housing in the Borough.
4. The main issue in the appeal was whether the proposed works fell within the scope that is allowed under Class M of the GPDO, specifically whether they were reasonably necessary to convert the building to a use falling within Use Class C3 (dwellinghouses).
5. The Council's officer report references the relevant legislation and advice contained in the PPG. The reason for refusal is also clearly set out and substantiated in the officer report. The Council has identified those works that it considers to fall outside the parameters of building operations reasonably necessary to convert the building. An element of judgement was required in making an assessment against the limitations of Class M based on the specific circumstances of the case. There was reasonable scope for alternative viewpoints to be held in relation to this matter.
6. I have reached the same decision as the Council regarding the merits of the proposal. That does not vindicate any procedure or reasoning on their part.

However, it establishes that it is not the case that approval should clearly have been granted.

7. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. It therefore follows that I cannot agree that the Council behaved unreasonably in preventing a development which should clearly have been permitted. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

M Ollerenshaw

INSPECTOR