
Costs Decision

Site visit made on 22 February 2022

by Roy Curnow MA BSc(Hons) CMS MRTPI

An Inspector appointed by the Secretary of State

Decision date: 07 October 2022

Costs application in relation to Appeal Ref: APP/N5660/C/20/3253308 97 Broxholm Road, London SE27 0BJ

- 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 Council of the London Borough of Lambeth for a partial award of costs against Mr Adnan Chaudhury.
 - The appeal was against an enforcement notice alleging the use of the property as a House in Multiple Occupation and 2 self-contained studio flats.
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Decision

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

Reasons

2. The start point in planning appeals is that the parties will normally meet their own expenses. Costs will normally be awarded where the following conditions have been met: a party has made a timely application for an award of costs; the party against whom the award is sought has behaved unreasonably; and the unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

The Council's Claim

3. The Council's case was set out in its Statement of Case, in respect of the Appellant's Ground (d) case. It states that the Appellant submitted no evidence whatsoever to support his Ground (d) claims; that this, therefore, had no chance of success; and that this was unreasonable behaviour that led to unnecessary expense.

The Appellant's Response

4. In response, the Appellant states that he submitted his evidence in a timely manner and that this appropriately responded to the Council's allegations, and it was clear that his case only related to the lower ground floor flat.

Findings

5. The Council's claim was made at the statement stage. At that time, save for providing skeleton arguments in the 'Grounds' on the appeal form, which he did, there was no necessity for the Appellant to set out his case in great detail.
6. In my appeal decision, I found that the Appellant's Ground (d) case did not prove the continuous use of the lower ground floor flat for four years on the balance of probability. However, the Appellant did provide a body of evidence

that provided reasonable and well-reasoned arguments, and this was supported by an affidavit.

7. Although I did not uphold his Ground (d) case, it was not made unreasonably and did not lead to unnecessary expenditure for the Council.
8. For the above reasons, the claim for costs fails.

Roy Curnow

Inspector