



Costs Decisions

Site visit made on 2 November 2022

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 November 2022

Costs applications in relation to Appeal Ref: APP/U5360/C/21/3288647 22 Grosvenor Way, LONDON, E5 9ND

- The applications are made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - **Application A** is made by the London Borough of Hackney for a full award of costs against Mr Simone Moscariello.
 - **Application B** is made by Mr Simone Moscariello for an award of costs against the London Borough of Hackney.
 - The appeal was against the enforcement notice alleging the material change of use to a House in Multiple Occupation (HMO).
-

Decisions

Costs Application A

1. The application for an award of costs is allowed in the terms set out below.

Costs Application B

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

Reasons

3. The Planning Practice Guidance advises that costs may be awarded against the party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. In Application A, the Council contends that the appellant's ground (b) appeal had no realistic prospect of success on the basis of the available evidence. The appellant submitted an incomplete PCN that provided a lease for a property not the subject to the PCN. Had information been provided enforcement action may not have been necessary and the matter could have been resolved informally.
5. I note that the Council produced ample evidence prior to the service of the notice and before the start of the appeal sought to discuss the matter with the appellant. Attempts were made to visit the property but the e-mail correspondence indicates a lack of willingness by the appellant to agree to a date for such a visit. Had the appellant cooperated, then it may have been the case that the Council might have found compliance with the notice and consequently found it unnecessary to proceed with the appeal. I note also that the appellant's lack of attendance at my own site inspection meant that I was unable to assess whether the property was continuing as an HMO or whether its use as an office had been reinstated

6. Although the Council in paragraph 9 of its cost application refers to a partial award of costs in respect of the ground (b) appeal, in the light of there being no substantive case put forward by the appellant to support his appeal on ground (g) particularly as there is an ambiguous argument promoted that the property has reverted back to offices, I consider that the Council should be awarded full costs in connection with this appeal and this is what I have done below.
7. Costs application (b) by Mr Simone Moscariello is on the basis that the Council did not disclose evidence to the appellant. However I note that the full e-mail chain provided by the Council shows that an officer report was provided. Whilst the appellant maintains that he could not access the property this is a civil matter between the owner and the tenant which carries little weight. The appellant states that he did not wish the case to be closed as it would always show that there was in breach but he wanted the whole notice quashed. However in the light of the evidence they appellant's approach is clearly unreasonable and has led to unnecessary expense in the appeal process by the Council.

Conclusions

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

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990, as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Simone Moscariello shall pay to the London Borough of Hackney the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The London Borough of Hackney is now invited to submit to Mr Simone Moscariello to whom a copy of this decision has been sent details of those costs with a view to reaching agreement as the amount.

P N Jarratt

INSPECTOR