
Costs Decision

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2023

**Costs application in relation to Appeal Ref: APP/YO435/C/22/3290738
83 Stratford Road, Wolverton, Milton Keynes MK12 5LU**

- 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 Mr Neil Briggs of NB Property Holdings 119 High Street Ltd for a full award of costs against Milton Keynes Council.
 - The appeal was against an enforcement notice alleging without planning permission, the unauthorised change of use of part of the building and operational development comprising of the following:
 - i) Part change of use of the ground floor into a mixed use as self-contained flat and Class E Commercial use.
 - ii) Unauthorised subdivision of the first floor to two self-contained flats.
 - iii) The installation of a rear external staircase has not been built in accordance with the approved plans as per planning permission 20/01678/FUL, drawing ref: 0320-SK-01 and;
 - iv) The unauthorised removal of chimney and installation of skylights to rear roof slope.
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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 where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG is clear that there is a right of appeal, and this is expressly reiterated in respect of enforcement notices. It continues by saying that the parties in appeals are normally expected to meet their own expenses. The PPG says costs may be awarded where a party has behaved unreasonably and it says unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues and examples are given.
4. Although I found the enforcement notice to be a nullity, this was not a matter raised by the applicant.
5. The applicant's application for costs relates to substantive matters and is made on the basis that the Council's decision to refuse planning permission and seek action against the works to the building, and to include the conversion of part of the ground floor to form a flat, was fundamentally flawed and amounts to unreasonable behaviour.

6. However, since I found the notice to be a nullity those matters were not considered, and I cannot therefore conclude that the Council acted unreasonably in taking enforcement action.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Felicity Thompson

INSPECTOR