
Costs Decision

Site visit made on 18 July 2023

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Costs application in relation to Appeal Refs: APP/T5150/C/22/3300242 & APP/T5150/C/21/3288345

3 Flamsted Avenue, Wembley HA9 6DL

- 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 the Council of the London Borough of Brent for a full award of costs against Properties UK 1948 Ltd.
 - The appeal was against the Council's decision to issue an enforcement notice against the use of the dwelling as a House in Multiple Occupation (HMO).
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Decision

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

Reasons

2. Paragraph 030 of 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. This costs application is made by the Council in respect of both procedural and substantive grounds.
4. The Council considers that it was put to unnecessary expense due to the appellant unreasonably advancing appeals on grounds (c) and (d) which, it considers, were unnecessary from the outset.
5. As I explained in the appeal decision letter itself the first enforcement notice was flawed and, given the errors I found, I had no option but to term it invalid and direct that it be quashed. Nonetheless, when issued, the appellant quite reasonably lodged an appeal, and I consider that the notice's incorrect allegation only muddied the waters for the appellant – perhaps both parties – as the relevant legislation had been misunderstood. In illustration, at the Inquiry, the appellant was still convinced that the appeals lodged on the legal grounds stood a chance of success.
6. Luckily, though, the Council reassessed the planning and legal positions, and in issuing the second enforcement notice, which rectified matters. That said, it should have withdrawn the first notice, concurrently.
7. In its claim for costs the Council says that the appellant was uncooperative. This might have been the case, and I did find the appellant's evidence to be

less than credible in parts, but I cannot accept that this caused the Council any significant disadvantage. The evidence was available for interpretation.

8. Accordingly, for the reasons given above, I am satisfied that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
9. I therefore refuse the application for an award of costs.

Timothy C King

INSPECTOR