



Costs Decision

Hearing held on 18 June 2024

Site visit made on 24 June 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Costs application in relation to Appeal Ref: APP/E5900/X/24/33391253 Landons Close, Isle of Dogs, London , E14 9QQ

- The application is made under the Town and Country Planning Act 1990, sections 195, 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 Tower Hamlets for a full award of costs against Miss Ismat Zaheer.
 - The appeal was against the refusal of a certificate of lawful use or development for the use of No. 3 Landons Close as being a (C4) HMO.
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Decision

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

The submissions for the Council of the London Borough of Tower Hamlets

2. The application was made in writing prior to the Hearing.

The response by Miss Ismat Zaheer

3. The respondent made a response to the application in writing prior to the Hearing.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The Council argue the appellant resisted requests for Officers to undertake a site visit to ascertain the current use of the appeal property. This is standard practice and an important part of the determination process of an application. The appellant contends that photographs were submitted with the application to provide details of the layout of the property and therefore a visit was not required. However, given that the floor plans submitted with the application only showed three bedrooms, it is understandable that the Council would not have been satisfied with the photographs as they would not have corresponded with the plans, ie the plans indicated 3 bedrooms whereas at the time the application was submitted there were in fact 5 bedrooms.
6. Had a site visit been accommodated by the appellant, the discrepancies relating to the layout of the property and how many bedrooms there were could have been addressed much sooner in the process. This would have negated the need for a discussion on the matter during the Hearing and waiting until I carried out a site visit myself before the correct layout was in fact

clarified. The Hearing site visit was arranged with only a week's notice given to the tenants with minimal disturbance caused to them. There is no reasonable justification why the appellant could not accommodate the Council in a similar manner during their consideration of the certificate of lawful use or development (LDC) application.

7. The evidence submitted with the appeal provides nothing materially different to that submitted with the previous appeal¹ that was dismissed. The appellant made no attempt to address the previous Inspector's concerns. Given the previous appeal related to an LDC application for an identical use and no new evidence of material significance was submitted with the current appeal, it has not been demonstrated how there was any reasonable prospect the appeal could succeed.
8. Some clarity was provided on the evidence submitted, such as the confirmation of the administrative errors in the previous application forms referencing the C3 use. However, this was only clarified during the Hearing. There was no reference to this in any of the appeal documentation.
9. Had the Council been given the opportunity to view the layout of the property during their consideration of the LDC application and the appellant addressed the matters raised in the previous Inspector's decision, particularly regarding the references to the use of the property being in C3 use on various application forms, the Council need not have wasted their time in addressing these matters in their appeal statement. Moreover, the lack of additional evidence materially different to that submitted with the previous appeal meant there was no reasonable prospect the appeal could succeed.
10. Overall, I consider the appellant behaved unreasonably throughout the Council's consideration of the LDC application and the appeal process, which has resulted in the Council incurring unnecessary expense in the appeal process.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

12. 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 Miss Ismat Zaheer shall pay to the London Borough of Tower Hamlets, 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.
13. The applicant is now invited to submit to Miss Ismat Zaheer, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Walker INSPECTOR

¹ Appeal ref: APP/E5900/X/23/3324690