The Planning Inspectorate

Costs Decision

Site visit made on 27 March 2024

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2024

Costs application in relation to Appeal Ref: APP/T5150/X/23/3315480
61 Alder Grove, London NW2 7DE

- 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 Mr Akram Mageed for a full award of costs against the Council of the London Borough of Brent.
- The appeal was against the refusal of a certificate of lawful use or development for the erection of a rear out-building.

Decision

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

Reasons

2. 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.

3. The PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. It sets out that examples of unreasonable behaviour include preventing or delaying development which should clearly be permitted or not following, well-established caselaw.

4. The applicant is of the view that the Council refused the application for a Lawful Development Certificate (LDC) due to its belief that the property was in use as a House in Multiple Occupation (HMO) and its erroneous view that HMOs do not benefit from permitted development rights. In this regard, they are of the view that the Council has failed to follow well-established caselaw and in doings so has wrongly refused permission. They consider this to be unreasonable behaviour that has resulted in the wasted and unnecessary expense of submitting the appeal.

5. However, the Council's reason for refusal makes reference to an assessment against the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Furthermore, in its Delegated Report there is reference to an unlawful development at the appeal site, thereby disapplying the permitted development rights set out by the GPDO.

6. I note the commentary within the appeal submissions surrounding the use of the property as a HMO. Nonetheless, it is clear from a combination of the reason for refusal, the delegated report, and the rebuttal to this application for costs, that this was not the principal reason for refusing the LDC application.

7. Moreover, it can be seen from my decision that the Council's refusal was well-founded, because permitted development rights do not apply when an unlawful development is present. Therefore, the appeal could not have been avoided and development which should have been permitted has not been prevented or delayed.

8. Accordingly, I cannot agree that the Council acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and therefore an award of costs is not justified.

J M Tweddle

INSPECTOR