The Planning Inspectorate

Costs Decision

Site visit made on 16 July 2024

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2024

Costs application in relation to Appeal Ref: APP/M4510/X/23/3329628
97A Osborne Avenue, Jesmond, Newcastle Upon Tyne NE2 1JT

- 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 Andrew Pellegrino, Pellegrino Lets, for a full award of costs against Newcastle-upon-Tyne City Council.
- The appeal was against the refusal of a certificate of lawful use or development for "Ground floor independent residential flat as a single, use class C3 dwellinghouse."

Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 030 of the Government's Planning Practice Guidance (PPG)[1] 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 appellant's case is the Council has openly conceded that No 97A is self-contained and has been rented out separately. This, they say, should be determinative and demonstrates that the Council's decision to refuse a certificate was unreasonable.

4. However, notwithstanding this, the Council set out various factors which led it to conclude that No 97A was not a separate dwelling. These included the lack of identification numbering and letterbox; use of a shared boiler and the lack of registration for Council tax.

5. Whilst I did not agree that such considerations were determinative, the Council explained its position and I am not persuaded that its stance went so far as to be unreasonable. In addition, the present self-contained nature of the dwelling did not overcome the fact that the appellant failed to demonstrate that it had been in continuous use as such for the requisite time period, and which ultimately led to the appeal being lost.

[1] Reference ID: 16-030-20140306

Conclusion

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

R Merrett

INSPECTOR