



Costs Decision

Site visit made on 8 August 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Costs application in relation to Appeal Ref: APP/N5660/W/23/3332277 47 Tankerville Road, London SW16 5LW

- 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 Mr I Kohn for a full award of costs against the Council of the London Borough of Lambeth.
- The appeal was against the refusal to grant planning permission without complying with conditions subject to which a previous planning permission was granted for conversion of existing dwelling into two self contained residential units (1 x 3 bedroom and 1 x 2 bedroom).

Decision

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

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. The PPG states that awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal. This application is made on procedural grounds.
3. The applicant submits that a full award of costs is justified as he considered that the Council acted unreasonably in preventing or delaying development that should clearly be permitted, acted contrary to, or did not follow legislation that they were made aware of and failed to substantiate the reason for refusal.
4. The Council does not consider that they acted unreasonably and submitted evidence to show that discussions had taken place with the applicant on a previous s73 application¹ which was refused on the basis of a change to the description of development.
5. For the reasons set out in my decision I have found that the Armstrong judgment and the PPG are relevant to this appeal, and that the development could be varied through an application under s73 of the Act.
6. Whilst the Council sought to justify their reasons for concluding that the proposal does not constitute a minor material amendment, I consider that they misinterpreted the outcome of the relevant caselaw referred to in my main decision and as such should have considered the application under s73 of the

¹ ref: 23/01585/VOC

Act. In the absence of any substantiated reasons to refuse permission, the Council should have granted permission for the development.

Conclusion

7. 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

8. 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 the Council of the London Borough of Lambeth shall pay to Mr Kohn 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.
9. The applicant is now invited to submit to Council of the London Borough of Lambeth to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Senior

INSPECTOR