



Costs Decision

Site visit made on 8 October 2024

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Costs application in relation to Appeal Ref: APP/T5150/C/24/3348827 60 The Ridgeway, London NW9 0UA

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by RSM Property Investments Limited for a partial award of costs against the Council of the London Borough of Brent.
 - The appeal was against an enforcement notice alleging the material change of use of the premises to flats and without planning permission, the erection of a two storey side and rear extension, alterations to the roof form, erection of a rear dormer window, and installation of rooflights to the front of the premises.
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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 sets out examples of the types of behaviour that can result in an award of costs.
3. A procedural award may arise where appellants provide information that is shown to be manifestly inaccurate or untrue. The appellant pursued an appeal on ground b), that the use as flats had not occurred, arguing that the use was as a House in Multiple Occupation (HMO). However, in response to a Planning Contravention Notice (PCN) the appellant had previously stated that the use was as flats. They referred to drawings which did not support their case as they did not show the layout on site as submitted with the PCN. The appellant has not provided an explanation as to why they have contradicted their own answers to the PCN. Nor have they responded to the Council's costs claim. As I have found that the use was as flats, it appears that the appellant's claim that the property was an HMO is manifestly inaccurate and the appeal on ground b) was unreasonable. The appellant's unreasonable behaviour has resulted in the Council incurring wasted and unnecessary expense in preparing their case in relation to the appeal on ground b).
4. The appellant is at risk of a substantive award if development is clearly not in accordance with the development plan and no other material considerations are advanced that indicate the decision should be made otherwise. In terms of the appeal on ground a), the appellant sought to gain planning permission for use as an HMO, whereas the deemed planning application flows from the allegation, relating to the use as flats. The appellant did not put forward any arguments to

indicate that planning permission should be granted for the flats, and I have found that the development does not accord with the development plan. No other material considerations were advanced that indicate the decision should have been made otherwise. It was therefore unreasonable for them to pursue the appeal on ground a) in this regard. As a result, the Council incurred unnecessary and wasted expense in responding to the appeal on ground a), in relation to the use of the site.

Conclusion

5. For the reasons given above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the appeal on ground b) and the appeal on ground a) in relation to the use, and a partial award of costs is therefore warranted.

Costs Order

6. 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 RSM Property Investments Limited shall pay to the Council of the London Borough of Brent, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the appeal on ground b) and the appeal on ground a) in relation to the use, such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to RSM Property Investments Limited, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

N Thomas

INSPECTOR