



Costs Decision

Site visit made on 8 October 2024

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 NOVEMBER 2024

Costs application in relation to Appeal Ref: APP/P5870/X/23/3331490 27 Burdon Lane and 1-6 Burdon Park, Cheam, Sutton SM2 7PP

- 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 Sutton for a full award of costs against Mr R Greenaway (Clearview Residential Limited).
 - The appeal was against the refusal of a certificate of lawful use or development for the erection of 6 dwellings.
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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 applicant (hereafter referred to as the Council) has made a case for an award of costs due to the change to the description of development made during the appeal process. The Council considers that the change to the description limited the scope of the planning considerations in the appeal, and resulted in the change to the procedure from a hearing to written representations. Also, if it had been asked whether the erection of the six houses at Burdon Park was lawful at application stage, the Council would have issued a Lawful Development Certificate (LDC) for the existing operations. In view of this, it is indicated that the accompanying appeal has been a waste of the Council's time and expense.
4. I have had regard to the Council's application for costs, but the PPG indicates that a local planning authority may choose to issue an LDC for a different description from that applied for, as an alternative to refusing a certificate altogether.¹ The Council has also not provided any substantive evidence to show that they considered amending the description of development for the LDC application, and the appellant was resistant. Furthermore, it was my action that resulted in the change to the description and procedure, based on what could be determined under section 191 of the Town & Country Planning Act 1990.
5. As such, despite the fact that the appellant was seeking to establish if the remaining part of the development could be completed, it was still within the remit of the Council to choose to issue a certificate for the six dwellings, rather than refusing the LDC application that led to the appeal.

¹ Paragraph 009 Reference ID: 17c-009-20140306

Conclusion

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M. P. Howell

INSPECTOR