
Costs Decision

Inquiry held on 20 August, 3 October and 17 October 2024.

Site visit made on 20 August 2024

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2025

Costs application in relation to Appeal Refs: APP/N5660/C/24/3342228, APP/N35660/C/24/3342231

Nos 7 and 9 Rita Road, London SW8 1JX

- 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 Nadeem Sidiqi (Henley Beech Ltd) and Sophia Amerjee (Ascot Gate Ltd), respectively for an award of costs against the Council of the London Borough of Lambeth.
 - The appeals were against the Council's decision to issue separate enforcement notices against nos 7 and 9 Rita due to an alleged material change of use from 3 to 7 self-contained flats.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) 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. This costs application is made by the appellants on the following four counts:
 - 1) Failing to look at, let alone consider, the evidence which was submitted as part of the CLEUD applications;
 - 2) Failure of the Council's witness to act in accordance with his duty towards the Inquiry;
 - 3) Failure to apply the correct approach to the evidence; and
 - 4) Failure to consider the evidence.
4. The CLEUD applications were not submitted to the Council until less than four weeks before the Inquiry opened, and the appellants' case in respect of the immunity claimed from planning control was still incomplete. In illustration fourteen significant supporting documents were only submitted some five days before the Inquiry. Had the appellants' case been submitted in full by 30 July – an extension of time had been agreed by PINS following requests by both main parties – then this would have enabled both parties to fully consider each others' evidence.

5. At the Inquiry, during cross-examination, the appellants' advocate continually took issue with the approach taken by the Council's witness to the Inquiry; in particular, that he did not revise his case in light of the appellants' evidence. I acknowledge this point, but there was some contradictory evidence within the appellants' case itself, and whether or not the various tenants remained in residence during the period the refurbishment works were carried out, was also a source of some dispute. Yet this could have been clarified by the submission of ledgers relating to each flat. It was said that these existed but they had not been provided as it was felt they would not be needed.
6. Yet sight of these would have allowed the Council to much more easily assess the evidence. In the event, its absence prolonged the Inquiry proceedings.
7. A chronological account of events during the appeal process is set out in the decision letter relating to the Council's application for an award of costs and I do not therefore need to reiterate this here. My conclusions have not been affected by the grounds set out in the appellants' claim.
8. Accordingly, for the reasons given above, I am satisfied that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
9. I therefore refuse the application for an award of costs.

Timothy C King

INSPECTOR