
Costs Decision

Inquiry held on 11 February 2025

Site visit made on 11 February 2025

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2025

Costs application in relation to Appeal A Ref: APP/K1935/X/24/3354037

40A Vinters Avenue, Stevenage, Hertfordshire SG1 1QU

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Stevenage Borough Council for a partial award of costs against Mr A Shamsi.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for the use of the existing property as 4no. self-contained studio flats.
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Costs application in relation to Appeal B Ref: APP/K1935/C/24/3349697

40A Vinters Avenue, Stevenage, Herts SG1 1QU

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Stevenage Borough Council for a partial award of costs against Mr A Shamsi.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the change of use of the land to use as four self-contained flats.
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Decision

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

The submissions for the Stevenage Borough Council

2. The application was made in writing at the inquiry.

The response by Mr A Shamsi

3. The appellant was only able to give evidence to the best of his recollection of events that took place a number of years ago. Their evidence did not contradict the information provided in the appellant's statutory declaration. They gave fuller details of the events that took place. These were not inaccurate and certainly not untrue.

Reasons

4. 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.
5. The appellant states that he moved into the appeal property on 27 January 2017 to make sure the builders were working efficiently and to get away from London. He then states that on 14 February 2017 he decided to move back to London but

- ended up staying to oversee the conversion works carried out to convert the building into four flats, again to ensure the builders were working efficiently.
6. However, the works required to convert the building were extensive. They involved the removal/installation of walls and the reconfiguration/installation of bathrooms and kitchens. The appellant initially stated the conversion works took place over the course of 2017 and 2018. However, in the inquiry, they stated the flats were all let out between 4 March 2017 and 6 April 2017. This is a considerably shorter period of time than initially claimed. Whilst the appellant may have occasionally stayed there whilst the works were being carried out, given the extent of works required to create the four flats it seems unlikely that they would have been living there throughout this time.
 7. The appellant argues the discrepancy in their own evidence regarding when the flats were let out is due to the amount of time that has since past. However, there is a substantial difference between a year and a half, which is the initial period the appellant claims the flats were all let out (August 2018) and a couple of months, when the appellant stated at the inquiry that the flats were all let out by April 2017. It is highly unlikely that someone would not remember whether they lived in a property for either a couple of months or a year and a half.
 8. Furthermore, the date on which the appellant moved into the property is imprecise. He has been vague in providing a date on when he moved into the property and only recently confirmed it was 27 January 2017. In the inquiry he confirmed he knew it was this date because he consulted his diary. However, there is no reason why he could not have consulted his diary earlier in the process.
 9. Moreover, the appellant confirmed with the Council's revenue service that up until 16 March 2017, the property was not habitable. This clearly conflicts with their argument that they lived in the property from January 2017. I note the appellant's explanation that his builder advised him that, for the purposes of paying Council Tax, technically it was not habitable and he went along with this advice. However, this is not a reasonable excuse by any means. Given the Protek Inspection Report was completed by someone that had actually viewed the property, I find that on the balance of probabilities that it was in fact habitable from at least 8 February 2017.
 10. Overall, with regard to when they claim to have lived in the property, the appellant's evidence throughout the appeal process and their cooperation with the Council's investigation into the alleged breach of planning control has been inconsistent. This amounts to unreasonable behaviour. However, the appeal decision does not turn on the appellant's recollection of events. The determinative factor is based on established planning law.
 11. I have found the appellant to have behaved unreasonably. The inconsistent evidence regarding the appellant living at the appeal property required the Council to test the evidence at great length during the inquiry. This would have required preparation of questioning by the Council and their advocate, which would have amounted to expense. Had the appellant's evidence been consistent, this would have negated the need to test their evidence to the extent that it was in the inquiry.
 12. I acknowledge the respondent is not familiar with appeal proceedings. Nevertheless, this does not adequately justify such inconsistent evidence.

Conclusion

13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is therefore warranted.

Costs Order

14. 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 Mr A Shamsi shall pay to Stevenage Borough Council, the costs of the appeal proceedings described in the heading of this decision limited to that part of the inquiry that dealt with Mr A Shamsi's claims of having lived at the appeal property.
15. The applicant is now invited to submit to Mr A Shamsi, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Walker

INSPECTOR