Planning Inspectorate

Costs Decision

Site visit made on 8 April 2025

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2025

Costs application in relation to Appeal B Ref: APP/T5150/W/24/3357231
97 Acton Lane, London NW10 8UT

- 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 Simon Finkelstein for a full award of costs against the Council of the London Borough of Brent.
- The appeal was against the refusal of planning permission for an external alteration to the shop front window, and a change from a window to a door on the rear elevation.

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 PPG indicates that local planning authorities will be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal at appeal; vague, generalised or inaccurate assertions have been made about a proposal's impact, which are unsupported by any objective analysis; and where similar cases have not been determined in a similar manner.

4. The applicant considers that the Council has exhibited unreasonable behaviour by expressing concerns about residential amenity for a basement flat, thereby introducing immaterial considerations about residential use and the internal layout. Similarly, the applicant considers that the Council took an unreasonable interpretation of planning policies, as only Policies DMP1 and BE7 of the Brent Local Plan 2022 were directly relevant for the proposed development. It is noted that this concern may have been influenced by separate appeal proceedings at the appeal site, concerning a change of use of the basement to a residential dwelling[1], and that prior approval has previously been granted to enable the conversion of the

[1] Ref 24/2261 - APP/T5150/W/24/3353800

shop to residential use[2]. However, even if the Council acted unreasonably in considering residential amenity, the refusal also relied on separate and substantive grounds relating to character and appearance, as well as highway safety. Consequently, an appeal would still have been necessary. I therefore find no unreasonable behaviour on procedural grounds.

5. The applicant also considers that the officer report contains factual inaccuracies, including concerns about inconsistences in the submitted plans and assertions that the proposed alterations would harm the shopping parade. However, I note the Council's concerns that the floorplans for different schemes[3] all differ from one another and that photographs of the shopfront do not correspond with the plans provided. While there may be disagreement between the parties regarding the accuracy of the submitted plans, I am satisfied that the Council had reasonable grounds to raise such concerns. I therefore find no unreasonable behaviour in this regard.

6. The applicant also alleges that the Council has not determined cases in a similar manner, insofar as it granted consent[4] for the external alteration of a nearby shopfront and so has exhibited unreasonable behaviour. However, limited evidence has been submitted regarding the relevant details of that scheme and how concerns such as character and appearance were addressed. As such, for the reasons set out in my appeal decision, it has not been sufficiently demonstrated that this shopfront is similar enough as to warrant determination in a similar manner.

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

S Lo

INSPECTOR

[2] Ref 22/1066
[3] Ref 24/0987, 24/1610 and 24/3674
[4] Ref 24/2710