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## Costs Decision

Site visit made on 5 August 2025

**by M Ollerenshaw BSc(Hons) MTPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> September 2025

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### **Costs application in relation to Appeal Ref: APP/C5690/C/23/3333328 164 Perry Hill, London, SE6 4EZ**

- 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 the Council of the London Borough of Lewisham for a full award of costs against Mr C Philippou, Stef and Philips Limited.
  - The appeal was against an enforcement notice alleging without planning permission the change of use of the property to a House in Multiple Occupation (use class C4).
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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 Council's costs application against the appellant is made on both procedural and substantive grounds. In summary, the Council considers that the appellant behaved unreasonably by withholding information and evidence that should have been provided; pursuing an appeal that had no reasonable prospect of succeeding; and submitting hidden grounds of appeal in an attempt to have the planning merits of both the existing and an alternative scheme considered.
4. The Council says that it did not receive the drawings for the alternative scheme even though these were listed as supporting documents and the appeal form is clear that the appellant must send any supporting documents to the Council. Whilst it is regrettable that the Council did not receive them, there is no evidence before me to suggest that the appellant deliberately withheld them in order to gain an advantage. Indeed, the appellant says that a copy of the drawings was sent to the Council. The drawings were not introduced at a late stage in the appeal process but at the outset, and the Council could have requested this information when it became apparent to them that it was missing. The drawings were later sent to the Council and they were given time to comment on them so there has been no prejudice caused in this regard. Therefore, the fact that the Council did not receive the drawings does not amount to unreasonable behaviour by the appellant.
5. At paragraph 053, the PPG explains that the right of appeal should be exercised in a reasonable manner; an appellant is at risk of an award of costs being made against them on substantive grounds if their appeal had no reasonable prospect of succeeding. This may occur, for example, when the development is clearly not in

accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise.

6. The outcome of the appeal did not rest solely on conflict with certain policies of the Development Plan, as there may have been other material considerations to consider and the decision maker may make decisions other than in accordance with the Development Plan. Moreover, there was some scope for differing interpretations of the relevant policies of the Development Management Local Plan and Core Strategy, and issues relating to living conditions and transport matters are largely subjective. In any case, the policies of the Development Management Local Plan and Core Strategy had been superseded by the time of my decision and the appeal was considered against the policies of the new Local Plan. It is unfortunate that the appellant did not refer to the London Plan, but this does not demonstrate unreasonable behaviour. Their statement did analyse the merits of the proposal with regard to the specific circumstances of the site, the development plan, national policy and other material considerations. Whilst I have disagreed with the appellant's case as a matter of planning judgement, I do not agree that the appeal had no prospect of success.
7. I am not persuaded that the appellant's submission of an alternative scheme amounts to unreasonable behaviour. As the changes shown on the drawings for the alternative scheme are minor and fall within the matters stated in the enforcement notice as constituting a breach of planning control, I was able to deal with them under the ground (a) appeal. It is unlikely that this caused the Council to incur any unnecessary or wasted expense in preparing for the appeal that would not otherwise have arisen.
8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified.

*M Ollerenshaw*

INSPECTOR