



Costs Decision

Site visit made on 7 July 2020

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Costs application in relation to Appeal Ref: APP/T5720/C/19/3239083 Land at 33 Hassocks Road, London SW16 5EU

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Zain Iqbal for a full award of costs against the Council of the London Borough of Merton.
 - The appeal was against an enforcement notice alleging the conversion of a single dwellinghouse on the land into 2 x self-contained flats.
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Decision

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

Reasons

2. 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. Paragraph 49¹ of the PPG advises that local planning authorities are at risk of an award of costs for example, if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material considerations, fail to produce evidence to substantiate the reasons for serving the enforcement notice, or provide vague, generalised or inaccurate assertions about a proposal's impact that are not supported by objective analysis.
4. The appellant claims that the Council seeks to prevent development that accords with the development plan, and that it has not adequately substantiated its reasons for issuing the notice. On the first point, I have found that the development does not accord with the development plan, so the Council has not acted unreasonably in this respect. Regarding the reasons for issuing the notice, while I agree that the Council's statement was somewhat scant, I am satisfied that these were adequately substantiated by the evidence submitted, taken as a whole.
5. The appellant also claims that the Council's failure to address a refused application² for the same development, and raising issues not among the reasons given for issuing the notice, namely parking, was unreasonable and put him to additional work which should not have been necessary. The

¹ Paragraph: 049 Reference ID: 16-049-20140306 Revision date: 06 03 2014

² Ref 19/P0949

appellant had to undertake additional work at appeal stage in order to refute the Council's concerns about parking, which were taken from the Officer's report and decision notice for the refused application. This constitutes unreasonable behaviour on the part of the Council, which has resulted in unnecessary or wasted expense being incurred by the appellant.

Costs Order

6. 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 the Council of the London Borough of Merton shall pay to Mr Zain Iqbal, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in refuting the Council's concerns in relation to parking only in relation to the appeal.
7. The applicant is now invited to submit to the Council of the London Borough of Merton, to whom copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on an amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

N Thomas

INSPECTOR