

Appellant's Costs Application

Flat 4 – 19 Clifton Avenue

127329/FH/2020

- 1 We find that the LPA misdirected the determination of this appeal and that the relevant information such as the like appeal decisions were not considered. The LPA did not pay regard to the submitted information or planning history when considering the insertion of the rooflights.
- 2 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. The PPG states that local planning authorities are at risk of an award of costs if they prevent or delay a development which should clearly be permitted having regard to the development plan, national policy and any other material considerations.
- 3 The costs case centres around the appellant's contention that the Council behaved unreasonably resulting in wasted expense in having to bring this appeal. The appellant alleges unreasonable behaviour, in the following ways:
 - failure to provide evidence to substantiate the reason for refusal
 - vague generalised and inaccurate assertions about the proposals impact which were unsupported by objective analysis
 - failure to treat like cases in a like manner and pay due regard to appeal decisions for like cases at both 17 Clifton Avenue and 19 Clifton and another case – all of which were issued to the LPA and referenced from the initial submission of the planning application
- 4 In summary :
 - The Council had before them a comprehensive report identifying the issues of coming and goings. The planning submission referenced 3 like appeal cases. Each case involved the same reason as given in this appeal – that additional bedrooms in existing flat conversions would lead to comings and goings detrimental to the surrounding area. In each case the Inspector allowed the appeal. The appellant pointed out these cases to the LPA and specifically quoted these case. One case is at the appeal property. The LPA failed to take account of specific advice on the same subject at the same property.
 - The reason for refusal was the detriment to amenity. The loss of amenity is not specified by the LPA.
 - The harm was alleged to fall to surrounding residential properties; these properties are not named.

- The allegations are vague and generalised.
- There is no policy to limit the number of bedrooms in a property.
- No specific evidence was produced to substantiate the reasons for refusal.
- There is no consistency in the approach to decision making. The Council failed to address why similar schemes had been handled differently by Planning Inspectors.

5. The appellant submits that the Council have acted unreasonably on substantive grounds by:
 - i) 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;
 - ii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - iii) persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; and
 - iv) not determining similar cases in a consistent manner.
6. The appellant seeks a full award of costs.