



The Planning Inspectorate

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The Head of Planning, Transport &
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London Borough of Camden
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your reference
PL/9000286 & HB/9460014
our reference
T/APP/X5210/A/94/232732/P7
T/APP/X5210/E/94/810726/P7
date

14 JUN 1994

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990, SECTION 20
AND SCHEDULE 3
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPLICATION FOR COSTS BY LONDON BOROUGH OF CAMDEN

1 I refer to your application for an award of partial costs against Kings's College, Cambridge which was made at the inquiry held at Camden Town Hall on 18 and 19 May 1994. The inquiry was in connection with appeals by King's College, Cambridge against the decisions of the London Borough of Camden to refuse planning permission for the redevelopment of land at Argyle House, 23-31 Euston Road, London NW1, to provide retail, banking and office accommodation, and to refuse conservation area consent for the demolition of the same premises, retaining the substantial part of the façade of 23-27 Euston Road.

2 In support of your application you stated that the application before the council in July 1993 was clearly for a different design. In February 1994 Mr Blee had been brought in by the appellant and had set about redesigning the scheme; it was immediately apparent that the appellant was not relying on the existing drawings. On 20 April 1994 the appellant had had a meeting with the council and English Heritage, when further drawings for the double-dormered roof had been introduced, but it was only by the appellant's letter of 12 May that the council had finally been informed that those drawings were to be substituted. There was nothing in the minutes of the meeting (doc 11) or in the letter of 26 April 1994 (doc 9: JMD5) which indicated that the application drawings were to be withdrawn or substituted. Because he was unsure Mr Methven had telephoned, and only because he had telephoned had he received the letter of 12 May: this was the first time that the council's advocate or anyone at Camden had been aware that the application was no longer proceeding on the basis of the earlier drawings. It was unreasonable for the appellant to withhold information that drawings which were the subject of the application had been withdrawn until a few days before the inquiry. The council had had to continue work on the original drawings and to consider the effect of the application: there had, therefore, been abortive work.

3 The costs claimed were limited to the extent to which abortive work had been carried out by the council on the application drawings between 20 April and 12 May. There had been an advocate's conference on 3 May, and a telephone conference after the drawings had been received on 16 May; on 17 May Mr Methven had worked most of the day producing supplementary evidence and cross-referencing. The abortive work



could be identified by the paragraphs referred in the supplementary proof, and that part of the cross-examination dealing with this aspect of the former scheme.

4 In response, it was stated for the appellant that there had been no intimation that there would be an application for costs; it was a preposterous application, unsupported by evidence. The letter of 26 April, which Mr Clay had seen at his conference on 3 May, had made it clear what course would be followed, namely that the new drawings were to be formally placed before the inspector for consideration at the inquiry. Mr Clay had not distinguished between abortive work and additional work, and had failed to identify what had been abortive. It was clear from the minutes of the meeting of 20 April that the council had not objected to the revised drawings being put before the inspector, nor had there been any suggestion that suggestion that the council would be at a disadvantage if this were done. Revision was a iterative process, and it was not uncommon for meetings to be held. Inquiry time had actually *been saved* by reducing the issues. It was ludicrous to make a claim for costs.

5 The application for costs falls to be determined in accordance with the advice contained in Circular 8/93 and all the relevant circumstances of the appeal, irrespective of the outcome, and costs may only be awarded against a party which has behaved unreasonably.

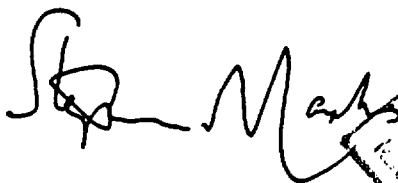
6 In my view, the events leading up to the substitution of the new drawings for the drawings originally considered by the council and in Mr Methven's proof of evidence were part of the process of attempting to resolve the objections and meet the suggestions made by the council and by English Heritage. The letter of 26 April was sent reasonably promptly after the meeting of 20 April, and, in my view, gave the council fair notice of the intention to substitute Mr Blee's version of the scheme, and asked for comments from the council and English Heritage as soon as possible. The council did have to undertake additional work to deal with the new drawings, but I am not persuaded that previous work could reasonably have been avoided; moreover, the substitution achieved its purpose of limiting the issues before the inquiry and therefore the time it would be likely to take; any additional argument would certainly have required another day of inquiry. It would indeed be unfortunate if the process of negotiation were hindered by fear of an application for costs.

7 I conclude that the appellant has not behaved unreasonably and that your application for an award of costs is not justified.

FORMAL DECISION

8 For the reasons I have given, and in the exercise of the powers transferred to me, I hereby refuse the application by the London Borough of Camden for an award of costs against King's College, Cambridge.

Yours faithfully



STEPHEN MARKS MA FSA RIBA
Inspector

