

Costs Application

Planning Application Reference: 2019/3436/P

Address: 335 West End Lane, London, NW6 1RS

Planning Appeal on behalf of: Kiyoto Sushi Bar

Appeal Proposal: Installation of replacement shopfront, including retractable awning and balustrading to decked area to forecourt of existing (Class A3).

March 2020

The appellant wishes to make an application for costs against the London Borough of Camden on the following grounds:

- i) It is submitted that the Council have acted unreasonably by reason of their failure to acknowledge amendments submitted by the appellant to address the concerns in respect of the amendment to the front decking which removed the fence separating the appeal site with No 337 and the subsequent merits of the case.
- ii) It is submitted that the Council have acted unreasonably in their time scales for validating and determining this application. The application was submitted on the planning portal on 4 July 2019 and was only validated on 7 October 2019 despite no invalid letters being received by the appellant. Despite amendments sent to the Local Planning Authority in respect of the above (listed in paragraph i) on 17 October 2019 with a statutory expiry date of 29 November 2019, the application was not formally determined until 30 January 2020. These unnecessary delays have had an impact on the appellant including his timescales for opening his business.
- iii) It is submitted that the Council have acted unreasonably by disregarding the number of glazed shopfronts in the immediate locality which do not have a harmful impact on the character of the area or wider conservation area.
- iv) The Planning Practice Guidance (PPG) states that:

“Awards against a local planning authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. The examples below relate mainly to planning appeals and are not exhaustive. The Planning Inspectorate will take all evidence into account, alongside any extenuating circumstances.”

Paragraph: 046 Reference ID: 16-046-20140306

- v) The criteria from the PPG specifically highlights the type of behaviour that may give rise to a substantive award against a local planning authority, with the guidance stating:

“Local planning authorities are 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 or failing to determine 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.”***

Paragraph: 049 Reference ID: 16-049-20140306

- vi) The statutory guidance also states that an award of costs may not be made against a local planning authority for the following:

“Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.” Paragraph: 050 Reference ID: 16-050-20140306

- vii) In this instance the situation is quite the opposite to Paragraph: 050 Reference ID: 16-050-20140306 as the Council have not had regard to the material considerations of the case and such an award of costs should be given and as affirmed by the first criterion of Paragraph: 049 Reference ID: 16-049-20140306, the development should be clearly permitted when assessed against all the relevant policies.

- viii) Similarly, and for the same reasons the Council have failed to have regard to the revised plans or the material planning considerations including the proliferation of other examples of similar shopfronts in the immediate locality.
- ix) As such the application was determined without proper regard of the material considerations and because of the poorly worded reason for refusal, the appellant is needing to pursue the case at appeal. Every element of the reason for refusal has been shown to be flawed, thereby providing conclusive evidence of unreasonableness in support of an award of costs in this instance.

Whilst the costs can be won on one point alone, in this case there appear to be multiple grounds which have resulted in the appellant lodging this appeal.

It is respectfully requested that the Inspector allow a full award of costs.