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## Costs Decision

Site visit made on 24 January 2019

**by R J Maile BSc FRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> March 2019**

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### **Costs application in relation to Appeal Ref: APP/L5240/W/18/3213916 80 North End, Croydon, Surrey, CR0 1UJ.**

- 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 M J Mapp Ltd for a full award of costs against the London Borough of Croydon.
  - The appeal was against the refusal of planning permission for change of use from D1 (Dental Surgery) to B1(a) (Offices).
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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 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. I have noted the exchange of emails between the parties prior to determination of the application. This includes an email from the Council dated 5 July 2018 indicating that unless information could be provided showing 18 months of marketing for a community use had been unsuccessful, the application would be refused.
4. This information from the Council preceded a site visit and was based upon a strict interpretation of Policy DM19 of the Local Plan and its supporting text. A site visit was finally undertaken on 17 July 2018. However, notwithstanding that visit the application was subsequently refused.
5. Having undertaken a site visit myself and for the reasons set out in my formal decision I consider that the premises are unsuitable for continued community use given their poor access, layout and condition, together with the lack of any easy vehicular access.
6. Conversely, the change of use to offices is supported by Policies SP3.8 – 3.11 and SP3.13 of the adopted Local Plan. The premises would be ideal for such office use and their poor layout would not be a bar to conversion into smaller office suites, for which there is clearly a demand in the Croydon Metropolitan Centre.

7. The requirement to market these premises for a period of 18 months would appear unreasonable in the specific circumstances of this case. In particular, the Council is obviously aware of the lack of office space within the Croydon Metropolitan Centre, a matter acknowledged in its recently adopted Local Plan.
8. Given these factors and the unsuitability of the appeal premises for continued community use, I have concluded that the Council failed to apply a pragmatic and common-sense approach in a case where the requirements of Policy DM19 were clearly outweighed by the physical constraints of the premises and the policy support for the change of use to offices.
9. The Council's rigid adherence to policy took no account of the cogent reasons advanced by the appellant for making an exception in this case. Its failure to apply a flexible approach when it was clear that an exception to policy was justified indicates that the application was not determined in a positive manner, as required by national policy in the Framework.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has been demonstrated and that a full award of costs is justified.

### **Costs Order**

11. 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 London Borough of Croydon shall pay to M J Mapp Ltd the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to the London Borough of Croydon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*R. J. Maile*

INSPECTOR