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## Costs Decision

Site visit made on 12 March 2019

**by Stuart Willis BA Hons MSc PGCE MRTPI**

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

**Decision date: 04 July 2019**

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### **Costs application in relation to Appeal Ref: APP/C5690/W/18/3203029 The Arches, Childers Street, London SE8 5BT**

- 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 Mr Paul Hensher of Evelyn Court LLP for a full award of costs against the Council of the London Borough of Lewisham.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the alteration and conversion of six vacant commercial units (use Class B1a) into 1 x one bedroom, 6 x two bedroom and 1 x three bedroom self-contained flats, together with the provision of 4 car parking and 17 cycle spaces.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The application was with the Council for some months without being determined prior to the appeal. It was recommended for approval by officers as well as by Members initially. An administrative error led to the proposal being deferred. A number of additional objections were received leading to further delays from subsequent Council procedures and a Purdah period prior to Local Elections. As a result of the delays and uncertainty over the period before the application would be determined, the applicant exercised his right to appeal against non-determination.
4. The appellant could reasonably have expected the correct procedures to have been carried out by the Council. While I understand the sense of frustration which the delays might have caused, following the submission of the appeal the Council have provided evidence as to why it would have turned down the proposal. This is the main issue I have identified in the appeal decision.
5. Members do not have to accept the advice of their officers, and in this instance a case has been made by the Council that the proposed development would be unacceptable. My decision makes it clear that I have reached the same conclusion and the appeal is dismissed.

6. Given the subsequent resolution of the Planning Committee to refuse the application following the appeal being submitted, it is likely that an appeal would have followed in any event, against the refusal of permission or non-determination.
7. Consequently, I do not find that the applicant has been put to wasted expense in pursuing the appeal. Moreover, although the applicant considers the proposal should have been permitted, I have found that the scheme fails.

**Conclusion**

8. I therefore find that while there were delays in the application process, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Stuart Willis*

INSPECTOR