



Costs Decisions

Site visit made on 24 February 2023

by S Edwards MA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Costs application in relation to Appeal A Ref: APP/L5810/W/21/3284339 561-563 Upper Richmond Road West, London SW14 7ED

- 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 Mrs N Patel for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of premises from a mixed use (Class A1/E and Class C3) to a residential use (Class C3) to form a pair of semi-detached houses.
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Costs application in relation to Appeal B Ref: APP/L5810/W/21/3284357 561-563 Upper Richmond Road West, London SW14 7ED

- 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 Mrs N Patel for a full award of costs against the Council of the London Borough of Richmond-upon-Thames.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of premises from a mixed use (Class A1/E and Class C3) to a residential use (Class C3) to form a pair of semi-detached houses.
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Decisions

1. The application in relation to Appeal A for an award of costs is refused.
2. The application in relation to Appeal B for an award of costs is refused.

Reasons

3. The Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 049 of the PPG lists different types of behaviours which may give rise to a substantive award against local planning authorities.
4. The applicant considers that the Council acted unreasonably in refusing the prior approval applications subject to Appeals A and B, thus preventing development which should clearly be permitted. In that respect, the applicant has drawn my attention to a prior approval application on the appeal site,

¹ Paragraph: 030 Reference ID: 16-030-20140306.

which has previously been granted by the Council. As part of this previous application, no concerns were raised by the Council regarding the cumulative floor space of the existing building changing use under Class M², and in particular whether it would have exceeded the threshold set out by paragraph M.1(c).

5. The applicant also considers that the Council has erred in its interpretation of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Furthermore, it is alleged that the Council acted unreasonably in refusing the prior approval application subject to Appeal A due to concerns regarding the provision of adequate natural light and cycle storage, despite rooflights and a cycle store being shown on the plans.
6. However, as detailed in my decisions, the Council's submissions have adequately justified the reasoning behind both decisions. It is clear that the Council has assessed both applications based on the available evidence and having regard to the requirements of the GPDO. Whilst I disagree with the Council's interpretation with regard to other aspects of the proposal subject to Appeal A, such as the provision of bin storage areas and cycle stores, this would not have prevented the appeal. Even if the Council had reached a different view in respect of the prior approval matters, this is unlikely to have led to different outcomes, given that the appeal proposals are not regarded as permitted development.
7. For these reasons, I find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, awards of costs are not justified.

S Edwards

INSPECTOR

² Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).