



Costs Decision

Site visit made on 22 January 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2024

Costs application in relation to Appeal Ref: APP/V5570/W/23/3325803 Craft House, 88 Goswell Road, Islington, London EC1V 7DB

- 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 88 Goswell Road Limited for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against the refusal of planning permission for "Alterations to the existing building including the rearrangement of the ground floor elevation, replacement of all windows on front and rear elevations, the rationalisation of the rear rooflight at first floor level, the rebuilding of the existing second storey rear extension, the creation of terrace space at first, second and third floor levels, along with the replacement of existing plant at roof level" without complying with a condition attached to the planning permission.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and that behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG lists examples of the type of behaviour which may give rise to a substantive award of costs against a local planning authority. This includes imposing a condition that is not necessary or relevant to development to be permitted, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations.
4. The application is seeking to recover the full costs incurred in the appeal process. The applicant considers that the Council behaved unreasonably as it imposed a condition which was not related to the development proposed or necessary to make the development acceptable, and that planning policy does not require such an onerous restriction in this location.
5. The supporting documentation to the original permission¹ refers to the provision of office accommodation and the drawings show external and internal alterations to the building, including the rebuilding of a second storey rear extension. However, the condition restricting the use of the building to offices is not necessary because there is no need to restrict the use in order to make

¹ Application ref P2022/3398/FUL.

the proposed physical alterations acceptable. Further, it is not reasonable as it places an unnecessary and unjustified restriction on the established use of the property. Therefore, the imposition of such a condition is not reasonable or necessary.

6. The Council considers that several development plan policies support the imposition of the condition. However, irrespective of the policy approach, due to the nature of the proposed development, the condition fails the required tests, and it is unreasonable to impose it.
7. Therefore, I conclude that by imposing a condition that was not necessary or reasonable, the Council's behaviour has been unreasonable. It thus follows that the applicant has incurred unnecessary expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated.

Costs Order

8. 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 Council of the London Borough of Islington shall pay to 88 Goswell Road Limited, 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.
9. The applicant is now invited to submit to the Council of the London Borough of Islington, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Wright

INSPECTOR