



Costs Decision

Site visit made on 1 February 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Costs application in relation to Appeal Ref: APP/V5570/W/23/3330449 137-139 Essex Road, London N1 2NR

- 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 Patel Taylor Investments Limited for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against a grant of planning permission subject to conditions of planning permission for proposed refurbishment of Astey's Row building facade including removal of existing windows and installation of enlarged openings and associated new windows/doors, creation of enlarged lightwell and enclosure, landscaping and associated works.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. Both the National Planning Policy Framework and the PPG encourage early engagement and agreement on conditions. Before determining the planning application, the Council did not seek the views of the applicant on the conditions. As these conditions were not pre-commencement conditions, this does not amount to unreasonable behaviour.
4. Notwithstanding this, the applicant claims that the Council imposed conditions which were not necessary, relevant to the development to be permitted, enforceable and reasonable; behaviour which the PPG says will place an authority at risk of an award of costs. The reasons for imposing these conditions primarily relate to the protection of office and retail floorspace in this town centre location.
5. As set out in my main decision, conditions restricting the use of the building and future changes of use are not relevant to the development permitted for external changes, or necessary to make the development acceptable.
6. Imposing conditions that are not necessary, relevant to the development to be permitted, enforceable and reasonable in all other aspects, amounts to unreasonable behaviour. It has resulted in unnecessary expense for the claimant, as described in the PPG, in making the appeal. A full award of costs is therefore justified.

Costs Order

7. 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 Patel Taylor Investments 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.
8. 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.

L Reid

INSPECTOR