



Costs Decision

Hearing held on 23 July 2024

Site visit made on 23 July 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2024

Costs application in relation to Appeal Ref: APP/M5450/W/24/3341699 The Power House Unit 5, Chantry Place, Harrow, HA3 6NY

- 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 SHF Property Investments LLP for a full award of costs against the London Borough of Harrow.
 - The appeal was against the refusal to grant prior approval for the conversion of the first and second floor of the existing building from Class E (commercial) to residential to provide 14 flats.
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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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes failure to produce evidence to substantiate each reason for refusal and making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. I acknowledge that the Council has exercised their planning judgement in relation to internal living accommodation, daylight and sunlight and to a degree flood risk and which the appellant has addressed through the submission of updated evidence.
5. However, their case fell a long way short of substantiating its claim that the noise evidence was deficient, particularly in the absence of a formal response from the Council's Environmental Health Officer. In respect of noise the reason for refusal is vague, generalised and not supported by objective analysis. The refusal of planning permission on these grounds, in the absence of any justifiable evidence about the proposal's impact amounted to unreasonable behaviour and resulted in the applicant incurring unnecessary expense in making this appeal.
6. The PPG makes clear that the statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications and is a light-touch process. Moreover, the provisions of Class MA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) do not require regard to be had to the development plan. In the

context of the prior approval legislation the Council has erred in their assessment by considering the application against the Agent of Change London Plan Policy D13.

7. Furthermore, the Council continued to object to the proposal due to its location within a Local Strategic Industrial Site. The impact of development upon existing industrial premises from the introduction of a residential use in established commercial and industrial areas and the impact upon the provision of employment land resulting from the development are not matters that fall within the provisions of Class M of the GPDO. As such, the Council have acted unreasonably by objecting to the proposal on these grounds. This also resulted in the appellant incurring unnecessary expense by producing a Marketing Report.
8. In my judgement no substantive evidence was submitted, by the Council, in respect of a number of matters namely flood risk, noise impacts and employment land although they continued to defend the appeal on these grounds. Despite information being requested prior to the event the comments of the Council's Infrastructure Officer in respect of flood risk and a list of suggested conditions were only provided at the Hearing. The Council's failure to adhere to deadlines and the resultant delay in providing information also constitutes unreasonable behaviour.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is therefore warranted.

Costs Order

10. 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 Harrow shall pay to SHF Property Investments LLP, the costs of the appeal proceedings the heading of this decision limited to those costs incurred in respect of the second, fifth and sixth reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the London Borough of Harrow, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Thandi

INSPECTOR