



Costs Decision

Site visit made on 22 August 2024

by R Lawrence BSc (Hons), PGDip (TP), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2024

Costs application in relation to Appeal Ref: APP/L5240/W/24/3338424 1-2 Grant Place, Croydon CR0 6PX

- 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 David Hancock for a full award of costs against the Council of the London Borough of Croydon.
- The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for Conversion of the first floor using Class G into 2 Flats with associated bin storage and installation of door at the front of the property.

Decision

1. The application for a partial 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. The applicant is seeking a full award of costs on the basis that the Council behaved unreasonably in its determination of the application for prior approval against incorrect criteria when reviewed against Class G of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO); and in failing to substantiate its reason for refusal.
4. In its response to the costs application, the Council acknowledges that the case officer's report makes incorrect reference to Class MA of the GPDO. Although the Council recognises its oversight, it maintains that the correct decision was issued as concerns were raised relating to arrangements required for the storage and management of domestic waste, which is relevant to condition G.1 (d)(v) of the GPDO.
5. It will be seen from my decision letter that I agreed with the Council in respect of condition (d)(v) of paragraph G.1 of the GPDO and accept that the matter of arrangements for the storage and management of domestic waste well within the remit of the Council. Nevertheless, the Council behaved unreasonably in failing to assess the application against the relevant criteria of the GPDO and, as a consequence, failing to substantiate its reason for refusal.

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6. In order for an application of costs to succeed, the unreasonable behaviour must also have resulted in unnecessary or waste expense. In this case, the Council's unreasonable behaviour has directly led to the applicant having to address matters during the appeal process that were unrelated to the prior approval matters relevant to their application and of defending its position. That said, even if the above error had not been made and the conditions under Class G had been properly considered, it is not the case that the application for prior approval should have clearly been permitted, nor that the entirety of the appeal process could have been avoided. Only a partial award of costs is warranted in relation to the wasted expense with the time and effort spent during the appeal process relating to matters that fell outside of Class G of the GPDO, including transport and parking.
 7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and I conclude that a partial award of costs is justified.

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 Croydon shall pay to Mr David Hancock the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the matters that fell outside of Class G of the GPDO, including transport and parking; 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 Croydon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Lawrence

INSPECTOR