



Costs Decision

Site visit made on 2 May 2025

by **S Poole BA(Hons) DipArch MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 May 2025

Costs application in relation to Appeal Ref: APP/E5900/W/25/3359942 5/5a Sandy's Row and 16 Artillery Passage, Spitalfields, London E1 7HW

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Romain Cohen, Pinnacle London Limited, for an award of costs against the Council of the London Borough of Tower Hamlets.
 - The appeal was against the refusal of planning permission for the change of use and conversion of the second floor from Class E(g)(i) [office] use to a two bedroom self-contained (Class C3) residential unit.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 Guidance lists examples of types of behaviour that may give rise to a substantive award of costs against a local planning authority. These include circumstances where an authority fails to produce evidence to substantiate a reason for refusal; or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or refuses planning permission on a ground capable of being dealt with by a planning condition.
4. The appellant makes a large number of assertions in respect of all four of the Council's reasons for refusal. In respect of the first reason for refusal I partially share the appellant's view that the Council has misapplied and misinterpreted some development plan policies relating to employment floorspace, albeit these policies are somewhat convoluted. In my view Local Plan Policy D.EMP3, "Loss of Employment Space" is the key consideration in this case and the absence of any meaningful assessment of the marketing material submitted with the planning application is surprising. This, and the over emphasis placed on parts of Policy S.EMP1, have been unhelpful to all parties involved in the appeal process.
5. In respect of the third reason for refusal relating to servicing and alleged impacts on highway safety I consider that the Council has made vague assertions about the impact of the proposed change of use. In particular there is no objective

assessment of the relative impacts of the existing office use and that resulting from the use of the appeal premises as a 2-bedroom dwelling.

6. In respect of reason for refusal 4, waste and recycling storage and collection I am of the view that this matter could have been dealt with by way of a planning condition had the proposal been acceptable in other respects.
7. In many circumstances where there is a convenient location to accommodate a cycle store the imposition of a planning condition to secure this would be a reasonable approach. In this case however, the applications drawings did not indicate that such a space existed within the site and therefore the Council's approach on this matter was reasonable.

Conclusion

8. For the reasons set out at paragraphs 4 to 6 above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in addressing reasons for refusal 3 and 4, and in part reason 1, is justified.

Costs Order

9. 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 Tower Hamlets shall pay to Mr Romain Cohen of Pinnacle London Limited, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in addressing reasons for refusal 3 and 4, in full, and reason 1 in part; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the Council of the London Borough of Tower Hamlets, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Poole

INSPECTOR