



Costs Decision

Site visit made on 29 April 2025

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Costs application in relation to Appeal Ref: APP/U5360/W/24/3355841 51-53 Ridley Road, London E8 2NP

- 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 Ziser of Rainbow Properties for a full award of costs against the Council of the London Borough of Hackney.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Prior Approval (Class MA) to change use of part of second floor of building from commercial, business and service use (Class E) to 7 x self-contained residential units.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 Council's first reason for refusal contends that the appeal site is within an area covered by an Article 4 Direction which removes the permitted development right which forms the basis of the proposal.
4. As set out in my Appeal Decision, the Article 4 Direction covers an area which Schedule 2 of that Direction states applies to "The land shown hatched in red on the attached plan being land comprising Hackney's Central Activities Zone, City Fringe and Dalston and Hackney Central Town Centres". The land shown in red on the attached plan does not include the appeal site. There is no ambiguity within the Direction as the boundary is clearly depicted on the attached plan. It would not be reasonable that an applicant or other interested party has to seek out a separate unnamed document to confirm the extent of the Direction when it is clearly depicted within the document itself.
5. The Article 4 direction is clear when read on its face. The Council's error in interpreting the extent of the Article 4 Direction represents unreasonable behaviour which has put the appellant to unnecessary expense in addressing this issue, including with regard to obtaining legal advice.
6. The Council's second reason for refusal relates to the absence of an undertaking preventing residents of the proposal from applying for on-street parking permits. However, I have agreed with the Council that this matter cannot be addressed by condition and that the appeal should be dismissed due to unacceptable transport

impacts. I have also concluded that noise from commercial premises would lead to significant harm to the living conditions of future residents. The Council's stance in respect of the Article 4 Direction has therefore not led to an appeal that could otherwise have been avoided.

7. Notwithstanding my conclusions in respect of traffic impacts and noise, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of addressing whether the proposal benefits from the Class MA permitted development right and the extent of the Article 4 Direction. A partial award of costs is therefore warranted.

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 Hackney shall pay to Mr Ziser of Rainbow Properties, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing whether the proposal benefits from the Class MA permitted development right; 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 Hackney, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Cross

INSPECTOR