



Costs Decision

Site visit made on 13 July 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2021

Costs application in relation to Appeal Ref: APP/X5210/W/21/3266565 1st Floor, 53-54 Tottenham Court Road, London W1T 2EJ

- 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 Trustees of Micro Anvika for a full award of costs against the Council of the London Borough of Camden.
 - The appeal was against the refusal of planning permission for change of use from vacant commercial unit that has been marketed as a flat (Class C3) to an office (Class B1).
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties to a planning appeal are normally expected to bear their own costs, but costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense in the appeal process. The applicant is seeking an award of costs on substantive grounds.
3. The Council's first reason for refusal specifically refers to the loss of residential floorspace. However, the application that was submitted and validated by the Council did not describe a change of use from residential accommodation. In my appeal decision which accompanies this costs decision, I found that there was no substantive evidence that the proposal involved the change of use from residential accommodation. Moreover, as a result of the Council's stance, it misdirected its evaluation of the merits of the proposal and fundamentally misapplied Policy H3 (Protecting existing homes) of the Camden Local Plan. I am therefore of the view that the Council failed to produce adequate evidence to substantiate its objection to the development with regard to the loss of residential floorspace, and, as a result, the applicant was put to unnecessary expense in the appeal process in this regard.
4. The second refusal reason relates to the absence of a legal agreement to secure car free development. Given the site's location within a controlled parking zone and the requirement of LP Policy T2, it was necessary for the development to be car free. This was not a matter which could be addressed by a planning condition and the Council made clear in its decision notice and appeal statement that the submission of a legal agreement would overcome this reason for refusal. Accordingly, the Council has not behaved unreasonably in this regard.

5. The third refusal reason relates to the absence of cycle parking provision. Given the requirements of LP Policy T1 the Council was right to give weight to this lack of provision. However, this was a very weak reason to refuse planning permission given the highly accessible location of the site and the overall aims of Policy T1. Albeit I recognise, for the purposes of a costs claim, that this is more a matter of planning judgement and weight than necessarily unreasonable behaviour. Moreover, the work related to this part of the appeal was limited and the applicant was not put to significant wasted expense in this regard.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated in respect of the matters referred to in the Council's first reason for refusal and that a partial award of costs is 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 Camden shall pay to Trustees of Micro Anvika, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in response to matters referred to in the Council's first reason for refusal of the application subject of the appeal; 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 Camden, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Caines

INSPECTOR