
Costs Decision

Site visit made on 21 February 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 March 2017

Costs application in relation to Appeal Ref: APP/X5990/W/16/3161962 18-22 Wigmore Street, London W1U 2RG

- 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 Gevacaco International Limited for a full award of costs against City of Westminster Council.
 - The appeal was against the refusal of planning permission for internal alterations, rear extensions and associated works to create 5 x 2 no. bedroom and 3 x 3 no. bedroom residential apartments and installation of lift with associated works. The development includes:
 1. Retention of the existing commercial and retail uses at ground/basement levels;
 2. Retention of the residential accommodation and replacement of poorly designed rear extensions at first to third levels across no's 18-22;
 3. Creation of window bays at first to third floors at no. 22;
 4. Re-arrangements of fenestration, including re-organisation of existing dormers at fourth floor and removal of modern insertions.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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. There are three claims to assess. Firstly, whether the Council produced evidence to substantiate its reason for refusal on appeal, or, instead, relied on vague, generalised or inaccurate assertions about a proposal's impact unsupported by any objective analysis. Secondly, whether the Council persisted in objections to elements of a scheme which an Inspector previously indicated to be acceptable. Lastly, whether development was prevented or delayed that clearly should have been permitted, having regard to the development plan, national policy and any other material considerations.
 3. In relation to the first claim, in its pre-application letter of advice, officer report, reason for refusal and appeal statement the Council explained why, in its view, the proposed development would harm the appearance of the building and the character and appearance of the Conservation Area. Although for the reasons given in the appeal decision I did not agree with the Council, through these documents it presented respectable evidence which substantiated its reason for refusal. The Council therefore did not act unreasonably.
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4. Turning to the second claim, the proposed extension in this appeal, due to its greater projection, different relief and exclusion of No 16, is notably different to the scheme that was allowed on appeal by an Inspector in 2015. As a result, the Council did not act unreasonably in objecting to this scheme.
5. In relation to the last claim, assessing the effect of the proposed development on the character and appearance of the building and conservation area involved judgement. I have found that realistic and specific evidence was provided by the Council. This evidence referred back to the Council's supplementary planning guidance, development plan and the National Planning Policy Framework. I have also found that the proposed development is notably different to the extension that was granted permission on appeal in 2015. For all of these reasons, I therefore find that development was not prevented or delayed that clearly should have been permitted, having regard to the development plan, national policy and other material considerations. As such the Council did not act unreasonably.
6. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector