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## Costs Decision

Site visit made on 12 June 2017

**by Peter Rose BA MRTPI DMS MCMi**

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

**Decision date: 29<sup>th</sup> June 2017**

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**Costs application in relation to Appeals Ref: APP/U5360/Y/16/3166228 and Ref: APP/U5360/D/17/3175045**

**300 Queensbridge Road, Hackney, London E8 3NH**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5), and under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6.
  - The application is made by Mrs Ellen Wainwright-Lee for a full award of costs against the Council of the London Borough of Hackney.
  - The appeal was against the refusal of listed building consent and of planning permission for demolition of the existing single storey rear addition and erection of full-width ground floor rear extension and half-width first floor rear extension. Installation of new rear windows at first, second and third floor levels. Replacement of window in east second floor room. Installation of new loft stair. Erection of a dormer to the east roof slope. Replacement of roof structure and covering.
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### Decision

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

### The submissions for Mrs Ellen Wainwright-Lee

2. The applicant's case is that the Council's assessment of the proposal was not consistent with other determinations, and that the authority failed to provide adequate reasoning for its decision.

### The response by the Council of the London Borough of Hackney

3. The Council considers materially different circumstances apply to the other decisions cited, and that harm would arise to the listed building and Conservation Areas from this proposal as it identified.

### Reasons

#### *Context*

4. The government's Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
  5. The Guidance identifies a range of possible circumstances in which an award of costs may be made against a local planning authority. These include preventing or delaying development which should clearly be permitted, unreasonably refusing planning permission, failing to produce evidence to
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substantiate a reason for refusal, and vague, generalised or inaccurate assertions about a proposal's impact.

6. The Guidance further advises that where a local authority has exercised its duty to determine an application in a reasonable manner, it should not be liable for an award of costs.

#### *Consistency*

7. Reference is made by the appellant to other extensions and to previous decisions by the Council, particularly at No 286, No 288 and No 290. The courts have highlighted the importance of consistency in decision-making<sup>1</sup>, and have held that like cases should be decided in a like manner so that there is consistency in the appellate process. I have had regard to the similarities of those cases to the appeal scheme as identified by the appellant, and to differences as highlighted by the Council. I also note that the Council's report does refer to the applicant's contention of possible precedent in this regard.
8. Notwithstanding the comparisons and contrasts drawn by the parties, the planning circumstances of each individual site and of each proposed scheme will be different from others, each proposal will be fact and context sensitive and, ultimately, each proposal must be considered with reference to its own particular merits. I consider that to have been the proper basis upon which the authority took its decision. I have found that those other decisions are undoubtedly material considerations relevant to the overall planning balance but they are not in themselves determinative of the application's outcome. The authority's behaviour and subsequent decision were not flawed in that regard.

#### *Reasoning*

9. The Council's decision was set in an appropriate policy context and the specific harm alleged to be arising was identified. Assessment of the possible effects of this particular proposal is ultimately a matter of planning judgment. To a significant degree, it is subjective in nature, and has been reasonably outlined in its relevant context by the authority.
10. I note reference to the observations of the Council's Conservation and Design Officer and contrasts drawn with the terms of the authority's decision notice. Nevertheless, it is for the Council to assess and assimilate each such contribution as appropriate in its processing of an application and to subsequently formulate any objection on such terms as it may consider necessary.
11. The Council took a particular view of these matters following a full and detailed assessment of the proposal, and its objection has been appropriately detailed in its application report and subsequent decision. Whilst I do not agree with the Council in its assessment of the overall planning merits of the scheme, I find the authority has not failed to provide adequate reasoning of its own position. Nor do I find the conclusions it reached to be so unreasonable.

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<sup>1</sup> For example, *North Wiltshire DC v Secretary of State for the Environment* 1993

## **Conclusion**

12. I therefore consider that unreasonable behaviour on the part of the authority resulting in unnecessary or wasted expense incurred by the appeal, as indicated in the Guidance, has not been demonstrated. Accordingly, I conclude that an award of costs is not justified in this instance and the application is refused.

*Peter Rose*  
INSPECTOR