



Costs Decision

Site visit made on 17 May 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 5th July 2017

Costs application in relation to Appeal Ref: APP/U5360/W/17/3170239 33 Dunloe Street, Hackney, London, E2 8JR

- 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 Ms Melanie Manchot for a partial award of costs against the Council of the London Borough of Hackney.
 - The appeal was against the refusal of planning permission for erection of a single storey roof extension and creation of 2x terraces at roof level.
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Decision

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

Reasons

2. The 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.
3. The applicant's claim is a partial one. It relates to the second reason for refusal which raises issues relating to the living conditions of existing occupiers. Whilst I have dismissed the appeal on this issue I have found in favour of the applicant.
4. Specifically the applicant refers to the previous scheme for the site¹ which was also refused planning permission. The plans for this scheme have been provided as part of the submissions and demonstrate that the roof terrace element has not changed. In the previous decision the Council did not raise the issue of privacy for existing occupiers. This is a point acknowledged by the Council in its cost rebuttal. Further there is no dispute that a condition could be utilised to secure screening.
5. The Council's concern relates to the resultant appearance that the addition of screening might have. However, given that, by its own admission the impact of the terrace was judged to be acceptable on the first submission, and no changes have been made the Council has not determined the cases in a consistent manner. In addition, for the reasons given in the appeal decision, I agree with the appellant that the issue is capable of being dealt with by condition in this case. In particular had I been satisfied with the overall design

¹ LPA ref 2015/1866

and appearance of the scheme that a condition to secure appropriate screening would have enabled the development to go ahead.

6. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in paragraph 049 of the Planning Practice Guide, has been demonstrated. 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 Hackney shall pay to Ms Melanie Manchot, the costs of the appeal proceedings described in the heading of this decision in so far as they relate to matters of living conditions.
8. 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

D J Board

INSPECTOR