



Costs Decision

Site visit made on 16 December 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Costs application in relation to Appeal Ref: APP/X5210/W/19/3236468 Flat 10, The Hamptons, 52 West End Lane, London NW6 2NE

- 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 J and Miss E Reitman 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 the installation of 1 x rear and 1 x side facing dormer windows; installation of 4 x roof lights.
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Decision

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

Reasons

2. 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 applicant argues, in summary, that the Council has acted unreasonably by not giving due and appropriate weight to the previous appeal decision¹ which permitted an identical form of dormer to the rear elevation. It is said that the present proposal is a small variation to an approved and extant permission. The case is made that the Council made no attempt to challenge the Inspector's decision and that, if it had taken all matters into account, the application would have been permitted and the appeal would have been avoided.
4. Furthermore, it is said that the Council has been inconsistent in its decision making when appropriately taking into account the previous appeal decision when permitting the rear dormer to Flat 9, 52 West End Lane but not doing so with the present proposal.
5. The Council consider that they have taken into account to an appropriate extent the previous appeal decision, but consider the judgement unfortunate in relation to the character and appearance of The Hamptons buildings and believe that this additional dormer to the side would be harmful to the character and appearance of the South Hampstead Conservation Area (the CA).
6. The Planning Report, which set out the issues in respect of the proposal, refers to the previous appeal decision, quoting relevant sections but also makes

¹ APP/X5210/W/18/3197457

reference to the detailed advice in the South Hampstead Conservation Area Appraisal, which highlights the importance of roof forms to the CA.

7. The proposal adds a further dormer to a different roof slope compared to the approved scheme and this requires an analysis of whether the proposal would be acceptable in design and conservation area terms. The Planning Report raises the key issues and while it may be said that greater emphasis and weight could have been placed on the previous appeal decision, the weight to be afforded in these circumstances is a matter for the decision maker and the appeal decision was clearly taken into account. Based on all the evidence and information, it is a matter of judgement as to whether the proposal would harm the character or appearance of the CA.
8. A side dormer is proposed with the present scheme and this differs from the position of the rear dormer permitted to Flat 9, which is similar to that granted at the earlier appeal. Consequently, the present proposal requires a different assessment of impact, which the Council has undertaken, and therefore I am satisfied that this does not demonstrate that there has been inconsistency in decision making.
9. While I disagree with the Council's conclusion on the impact of the proposal on the CA, I do not consider that the Council was unreasonable in exercising its judgement and coming to the view that harm would be caused. It submitted a statement setting out a relevant and cogent case to support its decision at the appeal.
10. In these circumstances, where the main issue revolves around matters of judgement, and with the Council making a satisfactory case to support the refusal, the appeal could not be avoided.
11. As a result, it follows that I cannot agree that the Council has acted unreasonably in respect of the reason for refusal. As such, there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

David Wyborn

INSPECTOR