



---

## Costs Decision

Site visit made on 15 June 2021

**by William Cooper BA (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> July 2021**

---

### **Costs application in relation to Appeal Ref: APP/W1905/W/20/3265298 31 Gaywood Avenue, London EN8 8QE**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Chaim Bard, Cab Housing Ltd for an award of costs against Broxbourne Borough Council.
  - The appeal was against the refusal to grant approval for construction of an additional floor above the principal part of the house to add additional living space to the existing dwelling house.
- 

### **Decision**

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

### **Reasons**

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application centres on the applicant's claim that the Council did not substantiate the reason for refusal (RFR).
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to adequately substantiate each reason for refusal.
5. After the Council's decision on the planning application, a lawful development certificate (LDC) was granted for a dormer extension to the appeal dwelling. The applicant asserts that, in the light of the LDC, the Council failed to substantiate or reconsider their position, particularly in relation to the proposal's effect on receivable light at adjoining premises.
6. I see evidence in the correspondence between the parties of articulation of the Council's view that while the LDC might be material it did not alter their position on the appeal proposal. The applicant asked if the Council could possibly elaborate further, in response to which the Council had nothing further to add.
7. The RFR shows that the reason for refusal included reference to outlook, oppressive and overbearing impact, and harm to the townscape of the area, in addition to loss of daylight. Thus, light levels were not the only stated grounds for refusal.

8. While it will be clear from my decision that I have reached a different view from the Council regarding the impact on adjoining light levels, I see articulation in the Planning Officer's report of the Council's rationale regarding the main matters of the case.
9. Moreover, the claimed fallback position would evidently entail a smaller building mass and height than the appeal proposal, which limits the weight the dormer scheme carries in this case.
10. To conclude, I find as follows. It would have been helpful, in the interests of clarity, if the Council had more fully articulated why they considered the LDC did not alter their position. Nonetheless, through a combination of the Planning Officer's Report, decision notice and post-decision correspondence, the Council provided a reasonably comprehensive substantiation of the RFR. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case.
11. Furthermore, it is not certain that, had the Council elaborated further on its position, the core arguments would have been substantially different in scope, or the appeal would have been withdrawn.

### **Conclusion**

12. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

*William Cooper*

INSPECTOR