



Costs Decision

Site visit made on 27 August 2021

by Peter D Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Costs application in relation to Appeal Ref: APP/U5360/D/21/3268818 48 Craven Walk, Hackney, London N16 6BU.

- 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 Berger (Firbex Ltd) for a full award of costs against the London Borough of Hackney Council.
 - The appeal was against the refusal of planning permission Ref 2020/3573 for a first floor rear infill extension.
-

Decision

1. The application for a full 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. Awards against a Local Planning Authority may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. From the appellant's costs application it would appear that it is largely substantive matters that are at issue.
4. The application for costs has arisen out of concerns over 3 main issues. First that the Council prevented development that should have been approved. Secondly, that the Council in making its decision ignored the character of the surrounding area and failed to give evidence to substantiate its refusal. Thirdly that the Council ignored precedents and has not determined similar cases in a consistent manner.
5. With respect to the first costs ground, national policy in the *National Planning Policy Framework*, the *London Plan 2021* at Policy D3 and the *Hackney Local Plan 2033* at Policy LP1 all stress the importance of development respecting the existing character of the surroundings to a development and where this is not achieved the expectation is that a proposal will be refused permission. As set out in my decision letter the proposal would fail to respect the character of the terrace in which the appeal property sits. It therefore would be contrary to national and Development Plan policy and the Council has not therefore prevented development that, given the Development Plan, should have been approved.
6. It is clear from the evidence that the Council's decision-making process did consider the character of the terrace on Craven Walk and that, although there has been substantive change at ground and roof levels of the terrace, the first

floor of the terrace retains its original character of gables and indented returns. The Council was therefore justified in refusing development that would adversely impact on that character. The process for householder appeals does not allow for the Local Planning Authority to prepare an appeal statement in the way that the appellant can in order to expand on reasons for refusal but I am satisfied that in this case there was sufficient commentary in the case officer's report on the application to justify the reason for refusal that was given.

7. Regarding the third ground and the need for consistency in decision making, although the appellant referred me to two cases which he considered similar in Leadale Road, as set out in my appeal decision letter having viewed the rear of Leadale Road I am not satisfied that the cases referred to set a precedent. There clearly were a number of first floor extensions in Leadale Road and a substantially different character whereas, in respect of the short terrace in which the appeal property sits, the original character clearly remains at first floor and there are no similar extensions at this level. Therefore, I am not persuaded that the Council has acted inconsistently in this case.
8. Where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations, including national policy, indicate that planning permission should have been granted, as was the case here, there are no grounds for an award of costs against the Council for unreasonable refusal of an application.
9. In conclusion, I am satisfied that the Council had a reasonable basis for its decision, that its determination was not inconsistent and that its reason for refusal was supported by relevant Development Plan policies.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense of the appeal process, as described in the Planning Practice Guidance, has not been demonstrated.

P. D. Biggers

INSPECTOR