



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: 21 September 2021

Costs application in relation to Appeal Ref: APP/U5360/D/21/3268637 9 Ashstead Road, Hackney, London E5 9BJ.

- 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 Heitner for a full award of costs against London Borough of Hackney Council.
 - The appeal was against the refusal of planning permission ref 2020/3002 for the extension of lower ground and ground floor levels and front and rear lightwells.
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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*, and local policy in 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 host dwelling and its surroundings. 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 Ashstead Road and that, although it acknowledges there has been substantive change within the road, the proposal in this case would further harm the character and appearance of the road. 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. I turn now to the third ground and the need for consistency in decision making. Although the appellant referred me to other cases in Ashstead Road where lightwells with full stepped access had been constructed and which he considered similar to the appeal proposal, as set out in my appeal decision letter, having viewed these on site, I am not satisfied that further such lightwells should be permitted because of the impact on the street scene. It is open to the Council as decision-maker, as it is to me as an Inspector, to consider proposals afresh having assessed the impact of earlier developments and, where it is clear that development has harmed in this case character and appearance, the objective to act consistently is just one factor to be weighed in the balance.
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.
9. In conclusion, I am satisfied that the Council had a reasonable basis for its decision in the circumstances of the case and that its reason for refusal was supported by relevant Development Plan policies and guidance in the *Hackney Residential Extensions and Alterations Supplementary Planning Document*.
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