The Planning Inspectorate

# 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/21/3266226**
**9 Ashtead 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 for the erection of front and rear roof extensions.

## 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 one main issue - that the Council ignored precedents in the form of a recent planning permission in the neighbouring Lingwood Road and in particular the appeal decision on a front roof extension proposal at No 63 Ashtead Road and has not therefore determined similar cases in a consistent manner.

5. It is clear from the evidence before me that both in respect of the Lingwood Road case and No 63 Ashtead Road the front dormer extensions did not extend from parapet wall to parapet wall and they were set up from the eaves. They are therefore materially different from the appeal proposal in retaining a small proportion of the original roof slope. The appeal proposal by contrast would extend from parapet wall to parapet wall and would only have an upstand from the eaves of less than 0.5 metres. Accordingly, as set out in my decision letter, almost none of the existing roof slope on the frontage would be visible. I am satisfied that the Council was justified in refusing the application on the grounds that it did not meet policy objectives of the Development Plan and design guidelines of the *Hackney Residential Extensions and Alterations Supplementary Planning Document* (SPD) and that it has not acted inconsistently in this case.

6. Where a local planning authority has refused a planning application for a proposal that, in its own right, is not in accordance with the development plan policy, and no material considerations, including precedents, 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.

7. 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.

8. 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