



Costs Decision

Site visit made on 21 October 2021

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2021.

Costs application in relation to Appeal Ref: APP/U5360/D/21/3278405 14 Summerhouse Road, Hackney, London N16 0NA

- 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 & Ms Rodgers and Lehmann for a full award of costs against the Council of the London Borough of Hackney.
 - The appeal was against the refusal of planning permission for the erection of a new rear dormer, a new rear storey extension at first floor level, and a new rooflight to front elevation.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. An award of costs against a local planning authority may be either procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It would appear that it is largely substantive matters that are at issue in this instance. The substance of the applicants' costs application can broadly be distilled down to a claim that the Council acted unreasonably by refusing planning permission that should have been permitted by misapplying guidance and failing to have proper regard to the development plan, national policy, and other material considerations, including other similar development, and by making inaccurate assertions about the proposal's impact.
 4. Each planning application falls to be determined on its own merits. The presence of other developments on other properties in the area does not, in isolation, signify that a broadly similar development would automatically be acceptable. The presence of other examples and the Council's consistency in their handling of other cases are considerations that weigh in the balance of any decision, but it is rarely the case that any two examples are identical. No 14 occupies an end of terrace location and has a relationship with the adjoining Abney Park Cemetery that is not directly comparable to other properties along Summerhouse Road. The circumstances with other examples of similar development in the area all vary in a manner of ways. For example, different extensions have varying degrees of visual prominence from the public domain.
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The form and origins of the buildings vary, as do the locations and contexts of each. Furthermore, not all planning decisions are good decisions and it is not unreasonable to call out poor development where it exists, be it lawful or otherwise. Whilst the officer's report did not list or consider all examples of other dormer and rear storey extensions in the area, it is clear from my reading of the officer's report that the decision taken for No 14 was not made in a vacuum where the presence of other development was disregarded. The amount of evidence that was prepared in order to support the appeal and which drew upon examples of extensions to other properties was a matter for the applicants in their attempt to address the Council's concerns through the appeal process.

5. The Council's *Supplementary Planning Document - Residential Extensions and Alterations* (SPD) was approved in April 2009 and provides detailed guidance for undertaking extensions and alterations to private dwellings within the Borough. The advice dovetails with advice in the Council's Stoke Newington Conservation Area Appraisal (CAA) as far as it relates to extensions and alterations to buildings. The guidance is clear and unambiguous. Both the rear extension and the dormer would conflict with the advice in the SPD and the CAA, including, in my assessment, the circumstances where the SPD advises that a larger rear roof extension may be acceptable. It is not unreasonable for the Council to have assessed the planning application against the advice within the SPD and the CAA. I am not persuaded that the conflict alone was determinative but having found accordingly, the Council was led to conclude that conflict with the guidelines in this instance, having regard to the specific circumstances of the case, would result in conflict with relevant policies of the development plan. My own conclusions concur, finding that other considerations did not outweigh the harm that I identified.
6. The officer's report confirms that a site visit was not undertaken prior to determining the application. This undeniably could have led to inaccurate assessments of the proposal's impact, and failure to have proper regard to the site's context. However, the appeal decision is based upon my own assessment having visited the site and seen its context for myself. My findings are set out in the appeal decision. The Council's behaviour in this regard did not ultimately lead to the applicants incurring unnecessary or wasted expense in the appeal process. Neither did the accuracy or reliability of the Council's historical records.
7. There are serious differences between the parties in terms of opinions, judgements, and interpretations. But this is not unusual where a planning decision is disputed. The reason for the refusal set out in the decision notice is clearly stated and properly supported by relevant policies of the development plan. Although the decision notice includes an erroneous reference to the Graham Road & Mapledene Conservation Area instead of the Stoke Newington Conservation Area, it is clear that the decision to refuse planning permission was taken with full understanding of the site's correct location.
8. Overall, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. The Council had reasonable concerns about the impact of the proposed development which justified its decision.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John D Allan

INSPECTOR