



Costs Decision

Site visit made on 9 November 2021

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Costs application in relation to Appeal Ref: APP/E5900/W/21/3277326 42 Headlam Street, London E1 5RT

- 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 Ranjeet Singh for a partial award of costs against the Council of the London Borough of Tower Hamlets.
 - The appeal was against the refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Planning Practice Guidance (the Guidance) 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 or wasted expense in the appeal process. Applications for an award of costs may be made on procedural or substantive grounds. The Guidance is clear in setting out the circumstances in which a Council could be vulnerable to an award of costs against it.
3. The appellant seeks a partial award of costs in this instance, setting out unreasonable behaviour leading to costs incurred in the preparation of the appeal with specific regard to the points raised by refusal reasons 2 and 3. Refusal reason 2 considered the matter of cycle parking provision whilst refusal reason 3 considered the external appearance of the building.
4. The Council's assessment of, and reasoning related to, the transport and highways impacts of the proposal as set out in the officer report was somewhat brief and lacking in detail. I can therefore understand the appellant's frustration in the officer's report's failure to address the consultation comments raised in the Council's 'Transportation and Highways' response.
5. As my decision in respect of the application sets out, I share the Council's misgivings about the content of the plans in relation to cycle facilities. It is hard therefore to reconcile the content of the submitted plans with the comments received from 'Transportation and Highways' with regard to the suitability of the cycle facilities.
6. However, the Council's Statement of Case more clearly and fully explains the case regarding the provision of cycle parking facilities. Whilst it would have been useful to have explained this more comprehensively within the officer

report at the application stage, the outcome of the application would have been the same and would have remained a matter of dispute at appeal. Although I have concluded that a suitably worded condition could resolve this matter had the appeal been successful, as the application and appeal fell on other grounds, I am not persuaded that the Council's behaviour was unreasonable or has led to unnecessary or wasted expense in this respect.

7. With regard to refusal reason 3, where prior approval is required in relation to the effect of development on the 'external appearance' of a building, it will be a matter of planning judgement as to whether consideration is given to the effect in terms of the building's intrinsic design and appearance and / or to the effect in terms of the building's relationship with adjoining or nearby properties. In this instance, the building is located within a street setting and is surrounded by a mix of buildings and it is not appropriate to consider external appearance in a vacuum or in isolation. As such, the relationship between the appeal building and nearby buildings is a relevant aspect of the consideration of the effect of the development on the external appearance of the building.
8. It was not therefore unreasonable of the Council to consider the proposal and its effect on the external appearance of the building in the context of its surroundings. Nor was the Council's case solely concerned with an increase in height resulting from the proposed extension, as was clearly if succinctly set out in the officer report, refusal reason and appeal submissions. Clearly, the effect of the Order's provisions would inevitably be the increase in height of a building but the requirement to consider the effect on external appearance recognises that there will be circumstances where the permission granted by the Order can legitimately be fettered.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. For these reasons, the application for an award of costs fails.

Graeme Robbie

INSPECTOR