
Costs Decision

Site visit made on 4 May 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/U5360/W/21/3281182

22 Cazenove Road, Hackney, London N16 6BD

- 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 appeal is made by Mr Adler of Beckmont Ltd for a full award of costs against the Council of the London Borough of Hackney.
 - The appeal was against a refusal of the local planning authority to grant approval required under Schedule 2, Part 20, Class AB of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) for development described as erection of a single storey roof extension over the existing mixed use building to provide two additional residential units (Use Class C3).
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The applicant claims that the Council acted unreasonably on Grounds which I summarise as preventing or delaying development which should clearly be permitted due to:
 - (a) inconsistency in decision making; and
 - (b) misinterpretation of Class AB of the GPDO.
4. In its assessment of an earlier scheme considered within my main decision under Appeal A, the Council refused prior approval on the basis that the proposed development would be an incongruous addition. The officer report indicated that this was because it would not replicate the design and details of the floors below. No further analysis of the design was undertaken. Replication was then proposed in the follow up application, but that was refused on grounds of relative massing.
5. It was not unreasonable for the applicant to interpret the Council's earlier refusal as indicating that replication would form the basis for an acceptable scheme. Indeed, no issue had been had previously been identified in relation to relative massing, notwithstanding the fact that both schemes inevitably involved increases.

6. Nonetheless, and as I have set out in my main decision, I share the Council's view that it was entitled to look beyond the site in making its assessment of the effects of the development on the external appearance of the building. That the Council's earlier assessment was not set within context explains the difference in emphasis within the decisions. If anything, this appears as a defect of its earlier assessment.
7. Moreover, and as again set out within my main decision, differing schemes of detailed design can give rise to differing perceptions of mass, both relative and otherwise. Notwithstanding the limited nature of the Council's analysis, this was clearly true of the 2 schemes in question, thus underlining the role that detailed design plays in providing a satisfactory external appearance.
8. For above reasons clear scope existed for the Council to refuse the follow up application. In so doing I am satisfied that the Council did not misinterpret the scope for assessment of external appearance provided in Class AB of the GPDO.
9. I find therefore that the applicant did not incur unnecessary or wasted expense in the appeal process on the Grounds claimed.

Conclusion

10. For the reasons outlined above, I find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. I therefore conclude that the application for an award of costs should be dismissed.

Benjamin Webb

INSPECTOR