



Costs Decision

Site visit made on 15 August 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Costs application in relation to Appeal Ref: APP/E5900/W/21/3288339 33 Jamestown Way, London E14 2DE

- 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 Laturia for a full award of costs against London Borough of Tower Hamlets.
 - The appeal was against the refusal to grant approval under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for 'one additional storey on the main house'.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may only be awarded where a party has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant maintains that the Council did not apply the relevant requirements set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) in respect of external appearance when making its decision. They consider the Council used arbitrarily applied local policy to refuse the planning application. They note that this caused significant costs, in terms of lost time, emotional distress and specialist costs involved in the appeal process.
4. Reading the Council's Delegated Planning Decision Report, I am satisfied that the Council's assessment was made in the context of the limitations of the GPDO, the National Planning Policy Framework and relevant Development Plan policies. The appropriate procedures were clearly followed, and to the statutory timeframes.
5. It is an objective exercise and matter of judgement in assessing the effect of a proposal on character and appearance. The Council considered the proposal's intrinsic design and relationship to the host building and neighbouring properties. It found this to be unacceptable in terms of effect on character and appearance and as can be seen in my decision I agreed with this. I appreciate that the appellant cited a number of appeal examples where a narrow assessment of appearance was defined. However, as I noted in my decision,

the recent case law *CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)* has confirmed that the control of the external appearance of the dwellinghouse is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality.

6. As can be seen from my appeal decision, I have not accepted the applicant's interpretation that external appearance should be considered in isolation of its surroundings. Consequently, the Council did not behave unreasonably by taking account of the surrounding built context in its assessment of the proposal. Furthermore, having considered the submissions in relation to the external appearance of the proposed development, I have found that the proposal would be unacceptable, and I have dismissed the appeal accordingly. It follows that the Council did not prevent or delay development that should clearly have been permitted.
7. Overall, the Council did not misinterpret or stray into areas beyond the scope of the prior approval regime. I am satisfied that the application would have been refused and an appeal could not have been avoided.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and therefore an award of costs is not justified.

J Symmons

INSPECTOR