



Costs Decision

Site visit made on 23 January 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Costs application in relation to Appeal Ref: APP/Y5420/W/22/3306428 12-16 Clifton Gardens, London N15 6AP

- 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 Elozer Hirschler for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the refusal of the Council to grant planning permission for extension to existing ground floor extension at No.12; first-floor rear extensions at No's 12-16; and Type 3 roof extension at No.12.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 states that the Council behaved unreasonably by failing to substantiate its reason for refusal and failing to justify the inconsistency between its decision on the appeal proposal and other recent decisions relating to almost identical proposals in the same street and the adjacent street.
4. Although each case should be considered on its own merits, the PPG is clear that local planning authorities may be at risk of an award of costs for not determining similar cases in a consistent manner. The appeal proposal is very similar to the examples submitted by the appellant with their application and appeal. These decisions on similar cases are material planning considerations. The Council has not explained what is different about the appeal site or the proposal, from the examples provided, to merit reaching a different decision in this case.
5. In its costs rebuttal, the Council make reference to other first floor rear extensions for which planning permission has been refused. These were not referred to in the Council's original assessment of the application or in its appeal statement. I have not been provided with full details of these cases and they do not relate to the same street or adjoining streets. I cannot therefore be certain that these sites were comparable to the appeal site, in relation to their character and appearance.

6. The Council's case relies upon there being no similar extensions, with the benefit of planning permission, on the rear of the terrace of houses on this side of Clifton Gardens. However, the same can be said of the type of extension suggested and previously approved by the Council on this site. The rear of these houses varies considerably and therefore the first-floor extension proposed would not result in any harm, or conflict with relevant planning policies and guidance.
7. In addition to the above, the Council's reason for refusal states that the proposal would result in a poor standard of accommodation for occupiers, a matter that has not been explained or substantiated. It is also unclear how the Council reached the conclusion that the proposal would result in overdevelopment of the site or why reference is made to strategic policies that are not relevant to house extensions.
8. This unjustified and unsubstantiated refusal has led to the need for an appeal, which could have been avoided altogether.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Haringey shall pay to Mr Elozor Hirschler, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council of the London Borough of Haringey, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Bartlett

INSPECTOR