
Costs Decisions

Site visit made on 11 July 2023

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Costs application in relation to Appeal Ref: APP/X5990/W/22/3306954 10 Blenheim Road, City of Westminster, London NW8 0LU

- 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 Z.Sun for a full award of costs against City of Westminster Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application described as "Planning Permission (PP) and Listed Building Consent (LBC) for works to 10, Blenheim Road were granted 8th June 2022, refs 21/05522/FULL and 21/05523/LBC. This current application seeks approval for the proposed works which had been taken out of the previously submitted proposals because they were seen as the "sticking points" preventing the scheme as a whole from being approved. This application therefore seeks approval for nine small components within the overall scheme:-
 1. Lowering the level of the IF floor/GF ceiling within the side wing, rooms F8 and G6.
 2. Lowering window W106 on the rear elevation, the window lighting room F8.
 3. New cupboards and a new bathroom layout in the side wing, first floor, rooms F6 and F7.
 4. Reopening the existing blocked archway between rooms F2 and F3 on the 1F floor.
 5. A larger area of garden at LGF level in the rear garden.
 6. A larger lightwell in the rear garden in front of window WL07 (room LG6).
 7. New more direct access into the garden from GF level (from room G6)
 8. Glazed pavement lights (rather than open mesh grille) at LGF level in the front lightwell in front of room LG2.
 9. Metal gates across the car parking space".
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Costs application in relation to Appeal Ref: APP/X5990/Y/22/3306955 10 Blenheim Road, City of Westminster, London NW8 0LU

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
- The application is made by Z.Sun for a full award of costs against City of Westminster Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for listed building consent described as "Planning Permission (PP) and Listed Building Consent (LBC) for works to 10, Blenheim Road were granted 8th June 2022, refs 21/05522/FULL and 21/05523/LBC. This current application seeks approval for the proposed works which had been taken out of the previously submitted proposals because they were seen as the "sticking points" preventing the scheme as a whole from being approved. This application therefore seeks approval for nine small components within the overall scheme:-
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 - 9. Metal gates across the car parking space".
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Decisions

1. The applications for award of costs are refused.

Preliminary Matters

2. Although referred to in the singular in the application, the costs application was submitted against both appeals. I have therefore treated the costs application as two applications. My reasoning is the same for both applications.

Reasons

3. 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
4. The costs applications are based on two main grounds: (i) the speed of the Council's consideration of the applications that led to the appeals, and of the previous applications; and (ii) unreasonableness in terms of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. On the first ground although I recognise the clear sense of grievance expressed and note the delays in the submitted Timeline Record, costs can only be awarded in relation to unnecessary expense as part of the current appeals; PPG states that costs cannot be claimed for the period during the determination of the planning application.
6. On the second ground, the applicant refers to various positions of the Council which they consider to be unreasonable. On the three grounds mentioned I have agreed with the applicant on two of them, and with the Council on the remaining issue. However, on the matters where I have not agreed with the Council's viewpoint the Council have provided evidence at the appeal in support of their decisions. My conclusions were a matter of planning judgement and I do not consider that the matters on which we have disagreed were examples of development which should clearly be permitted. The Council provided development plan policies and material considerations to support their views. I do not consider therefore there are grounds for a substantive award against the Council.
7. In a similar vein the Applicant notes that if the appeals are granted, any cost associated with the subsequent applications and appeals should be eligible for costs, as the proposals would have been as originally submitted in August

2021. However, as above, the Council have provided reasons for their decisions, and furthermore, I have agreed with the Council with their views on two of the proposed works.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Jon Hockley

INSPECTOR