



Costs Decisions

Site visit made on 24 October 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 5th December 2023

Costs application in relation to Appeal A Ref: APP/U5930/W/22/3313005 1-12 Serbin Close, London, E10 6JL

- 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 M Hoffman for a full award of costs against Waltham Forest London Borough Council.
- The appeal was against the refusal of prior approval for the erection of an additional storey of new dwellinghouses immediately above the existing building and the reinstatement of water tanks above (to create 3 x 2-bedroom flats with roof terraces to North and East Elevations. Installation of new refuse storage enclosure to match existing and cycle storage provision).

Costs application in relation to Appeal B Ref: APP/U5930/W/22/3313047 1-12 Serbin Close, London, E10 6JL

- 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 M Hoffman for a full award of costs against Waltham Forest London Borough Council.
- The appeal was against the refusal of prior approval for the erection of an additional storey of new dwellinghouses immediately above the existing building and the reinstatement of water tanks above (to create 4 x 2-bedroom flats with roof terraces to East and West Elevations. Installation of new refuse storage enclosure to match existing and cycle storage provision).

Decision – Appeals A & B

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

Reasons - Appeals A & B

2. Parties in planning appeals normally meet their own expenses. However, 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. There are four claims to assess. Firstly, whether the Council prevented development which should clearly have been permitted, having regard to its accordance with the National Planning Policy Framework ('the Framework') and any other material considerations. Secondly, whether the Council failed to produce adequate evidence to substantiate its reason for refusal. Thirdly, whether the Council refused prior approval on a relevant ground when the attachment of suitable conditions would have enabled the proposed development to go ahead. Lastly, whether the Council wrongly understood its role in the prior approval process.

4. In terms of the first and second claims, in its decision notices the Council explained that the external appearance of the proposed extensions would result in harm to its surroundings. In respect of Appeal B, it also explained that its design would harm the living conditions of neighbours. The delegated officer reports expanded on these reasons. Policies of the development plan and supplementary planning documents were cited that the schemes would be contrary to. However, as these policies and guidance reflect the emphasis in the Framework on good design and residential amenity, they are consistent with it. Whilst the Council's design guidance contains separation distances to protect living conditions, which is a level of detail not present in the Framework, it is clear from the officer reports that they were applied flexibly. As a result, I find that the Council assessed the proposals in accordance with the Framework so far as is relevant to the subject matter of the prior approval in accordance with the Town and Country (General Permitted Development) (England) Order 2015 (as amended).
5. The existence of the extant permission for the additional storey to the neighbouring block is acknowledged in the officer reports for both proposals. Given the proposed increase in height and proximity of surrounding houses to the east, and large domestic garages to the north, it is a matter of planning judgement as to whether the scheme should be considered in relation to the neighbouring block only, or in relation to the surrounding houses as well. Although the Council found that the relationship with surrounding houses was important, and for the reasons given in the appeal decision I did not, this is therefore not unreasonable behaviour. In terms of assessing external appearance the Council's design analysis was not particularly detailed. However, through its reason for refusal and officer report it presented respectable evidence to substantiate its reason to decide that prior approval was required and that it should not be given. As a result, it did not act unreasonably.
6. Turning to the third claim, in Appeal B the Council also refused prior approval in relation to the impact of the scheme on the amenity of neighbouring premises. Given the prescriptive approach of the GPDO to processing applications, and its emphasis on prompt decision making, it was reasonable of the Council to promptly issue a decision notice so that the appellant could decide whether to re-apply with an amended scheme or appeal. By adopting such an approach objecting neighbours would be re-consulted and so would have the opportunity to comment on the amendments. Whilst for the reasons given in the appeal decision I found that it would be acceptable to deal with this matter by condition, the Council acted reasonably in not doing so.
7. With regard to the last claim, the Council did not misdirect itself in relation to assessing external appearance. This is because the physical dimensions of proposed extensions can vary within the limits set by Part 20 and in conjunction with its architectural features this will affect the external appearance of the host building, which can also include its relationship with surrounding properties.
8. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe Inspector