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## Costs Decision

Site visit made on 19 October 2023

**by P Storey BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 January 2024**

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### **Costs application in relation to Appeal Ref: APP/U5360/W/23/3318030 Partly Complete Hotel, 17–33 Westland Place, London N1 7LP**

- 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 the Council of the London Borough of Hackney for a full award of costs against Acre City Ltd.
  - The appeal was against the refusal of planning permission for proposed 5th floor extension to provide an additional eleven rooms in the approved and partly completed hotel.
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### **Decision**

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

### **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 Council considers that the appellant has behaved unreasonably on the grounds that the appellant has applied for a development that has already been dismissed at appeal and the circumstances have not materially changed in the intervening period.
4. The PPG states that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
5. Although I have not been provided with full details of the previous proposal, I have been provided with a copy of the appeal decision and have had regard to this when determining the appeal. I understand there are some similarities between the current and previous proposals, but I am unable to quantify the precise extent to which the similarities apply.
6. The proposal subject to the current appeal was supported by an updated daylight and sunlight report (the DSR), which formed a key component of the assessment. The DSR used the consented scheme as the baseline position

against which the daylight and sunlight effects of the proposed development were assessed. Whilst I am not provided with full details of similar assessments used for the previous appeal, I understand they were based on a different baseline position taken prior to the consented scheme being implemented. As such, the evidence submitted in support of the previous appeal appears to have followed a substantially different methodology.

7. Ultimately, in determining the current appeal, I reached a similar conclusion to that of my colleague in determining the previous appeal. However, based on the evidence available to me, it appears that the details considered to reach our respective conclusions were significantly different.
8. As such, irrespective of the level of similarity between the two schemes, I am satisfied that the key differences in the submitted evidence provide sufficient distinction between the two proposals to ensure the aforementioned scenario outlined by the PPG has not been met.
9. Whilst in determining the appeal I have not found the evidence submitted by the appellant to be sufficiently persuasive, I am satisfied that this was a matter of planning judgement, and the right of appeal has been exercised in a reasonable manner. Therefore, none of the criteria that may give rise to a substantive award of costs against an appellant, as set out in the PPG, have been met.

### **Conclusion**

10. Based on the information before me, I find no unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has been demonstrated, as set out in the PPG. The application for an award of costs is therefore refused.

*P Storey*

INSPECTOR