

Costs Decision

Site visit made on 4 January 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Costs application in relation to Appeal Ref: APP/A5270/W/23/3321672 Land at 95 Greenford Road, Greenford UB6 9BB

- 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 Steven Galvin for a full award of costs against the Council of the London Borough of Ealing.
 - The appeal was against the refusal of planning permission for the erection of an additional storey to provide 2 studio flats.
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Decision

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

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses, but 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
3. The PPG states that a local planning authority may be at risk of an award of costs if it persists in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable. The current proposal would, like a previously proposal dismissed on appeal¹, add an extra storey to an existing 2 storey building. The claimant argues that the previous Inspector accepted the proposed height, which would be the same in both schemes, so that the Council's continuing objection to this additional height is unreasonable.
4. The previous Inspector found that the greater height of the appeal building relative to its neighbours would not *in itself* be significantly out of keeping or jarring within the street scene. Looking at the proposal as a whole, however, it was also found that due to the proposed building's prominent corner position, height and incongruous appearance it would be an intrusive feature in the street scene.

¹ APP/A5270/W/21/3288396

5. The height of a building should not usually be judged in isolation from other aspects of design. A more wholistic approach, as taken by the previous Inspector, is needed. While it is true that the scheme has been amended in light of that Inspector's specific design objections, the result is a different scheme which requires its own assessment. It is reasonable for the Council to have appraised the new design on its merits, taking into account a range of factors including height.
6. The Council did, however, take direct issue with the previous Inspector's findings that the increased height in itself was acceptable. This approach could have amounted to unreasonable behaviour, as outlined above. In this case, however, the Council did raise cogent points regarding the overall impact of the proposal - including in regard to massing, scale and location - so that its overall assessment was reasonable.
7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. The application for an award of costs therefore fails.

Les Greenwood

INSPECTOR