



## Costs Decision

Site visit made on 31 January 2024

**by R Hitchcock BSc(Hons) DipCD MRTPI**

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

**Decision date: 26<sup>th</sup> February 2024**

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### **Costs application in relation to Appeal Ref: APP/N4720/C/23/3331169 458 and 460 York Road, LEEDS, LS9 0HH**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Yasir Khan for a full award of costs against Leeds City Council.
  - The appeal was against an enforcement notice alleging the erection of an extension spanning the rear of both properties.
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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 claims that the Council's interpretation that the development is not that approved by decision refs. 16/06684/DHH and 16/06685/DHH was misplaced and therefore unreasonable. Development granted planning permission by virtue of Article 3(1) and Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) is subject to its terms and conditions.
4. As I have found, an extension constructed across 2 dwellings as a single operation falls outside the scope of the Class A provisions. Even if it was found otherwise, the development carried out fails to meet the conditions listed on the Decision Notices issued by the Council on 25 October 2016. It is not the development specified, nor constructed within the terms of those permissions.
5. Notwithstanding some similarities between the approved development and parts of the extension constructed, there is no provision to retrospectively apply the provisions of the GPDO. Furthermore, for the reasons explained in the Decision Letter, the consultation requirements for prior notification under Part 1 undermines a claim of a fallback position. Although there were no neighbour objections at the time of the applications in 2016, that does not guarantee objections from existing neighbours or wider consultation would not be received for the development as constructed.
6. Accordingly, it is incumbent that the Council considered the development with regard to the wider requirements of the development plan. Whereas negotiation on matters of concern would have been available had the applicant submitted a retrospective planning permission, as that did not occur, the

Council's hands were tied as to the options for enforcement and a notice requiring complete removal of the extension to remedy the breach was not therefore unreasonable. Whilst I recognise that this may have caused the applicant stress, the Council has highlighted its own attempts to engage with the applicant prior to the service of the Notice. This was an opportunity to minimise any such effects.

7. The applicant indicates that distances and descriptions used by the Council are inaccurate. However, it is unclear exactly which dimensions this claim is concerned with. I cannot therefore be sure that what is alleged is tantamount to unreasonable behaviour or that it has resulted in wasted time in an appeal where the effects of existing development on nearby residents and the general locality fall to be assessed.
8. The Council's reference to a 2-storey development is unsurprising given the photographic evidence collected at the point of its investigation part way through the extension's construction. This showed 2 levels of openings including a lower doorway. It was not therefore unreasonable to highlight it for the purposes of responding to the submitted ground (b) and (c) appeals. Although I have determined that the applicant's argument that the extension is that approved under applications 16/06684/DHH and 16/06685/DHH was flawed for other reasons, I find the Council's approach was not unreasonable.
9. I note the applicant's concerns in regard to potentially defamatory and slanderous statements; however, these are not matters for the appeal.
10. For the above reasons, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

*R Hitchcock*

INSPECTOR