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## Costs Decisions

Site visit made on 26 March 2024

**by E Catcheside BA (Hons) MSc MRTPI**

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

**Decision date: 15 May 2024**

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### **Costs application in relation to Appeal A Ref: APP/X5210/W/23/3327715 239 Camden High Street, Camden, London, NW1 7BU**

- 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 Capital QSR Ltd for a full award of costs against the Council of the London Borough of Camden.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for one- and two-storey rear extensions to form two apartments above existing hot food takeaway.
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### **Appeal B Ref: APP/X5210/W/23/3327716 239 Camden High Street, Camden, London, NW1 7BU**

- 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 Capital QSR Ltd for a full award of costs against the Council of the London Borough of Camden.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for one- and two-storey rear extensions with mansard roof over to form three apartments above existing hot food takeaway.
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### **Decision – Application in relation to Appeal A**

1. The application for a full award of costs is refused.

### **Decision – Application in relation to Appeal B**

2. The application for a full award of costs is refused.

### **Reasons**

1. Parties in planning appeals normally meet their own expenses. However, 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.
2. The applications for an award of costs were made on procedural grounds, on the basis that the Council failed to determine the applications within the statutory timescale. The PPG states that, if it is clear that the local planning authority (LPA) will fail to determine an application within the time limits, it should give the applicant a proper explanation. It also states that, in any appeal against non-determination, the LPA should explain their reasons for not reaching a decision within the relevant time limit, and why permission would

not have been granted had the application been determined within the relevant period.

3. The period leading up to the submission of the appeals took place over a protracted period, which extended well beyond the statutory time period for the determination of planning applications. However, it is clear from the evidence that the Council communicated to the applicant from a very early stage, and throughout the process, that the planning applications were unlikely to be supported on fundamental design grounds.
4. Notwithstanding this, the Council accepted revised drawings and additional information during the lifetime of the applications. I am satisfied that a large part of the delay in the determination of the applications is attributed to the preparation, submission, and consideration of this additional information. Moreover, from the evidence, the applications were validated expeditiously once the information requested by the Council had been provided. Therefore, whilst I recognise the applicant's frustration in the time it took to consider the applications, the Council's behaviour was not unreasonable.
5. I acknowledge there are some discrepancies in the Council's case, including the reference to altered parapet heights. However, these discrepancies do not detract from the thrust of the Council's position, which is that the proposed developments are unacceptable on design and other grounds. Moreover, the Council has not raised any objections to the proposals in respect of environmental health. Therefore, it has not been necessary for the applicant to produce any unexpected technical reports as part of the appeal process.
6. The Council has clearly set out clear, precise, specific and relevant reasons why it would have refused the applications in the decision notices submitted with its appeal evidence. Therefore, if the applications had been determined and the applicant wished to seek an alternative outcome, it would have needed to submit an appeal in any case. Therefore, I am satisfied that no unnecessary or wasted expense has been incurred in the appeal process.

## **Conclusion**

7. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred. Therefore, the applications for a full award of costs in respect of both Appeal A and Appeal B are refused.

*E Catchside*

INSPECTOR