



Costs Decision

Site visit made on 16 April 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2024

Costs application in relation to Appeal Ref: APP/U5360/W/23/3326896 Land at Ridley Road and Colvestone Crescent, Hackney, London E8 2LG

- 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 Ms Ann Tang of Nice Properties & Management Limited for a full award of costs against the Council of the London Borough of Hackney.
- The appeal was against the refusal of planning permission for erection of a three-storey building comprising commercial (financial and professional services) floorspace at ground floor and a residential unit first and second floor levels (C3 use) including second floor terrace and storage for bikes and refuse.

Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. 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.
3. In respect of the first reason for refusal, the appellant refers to a detailed Overshadowing Report which sought to address issues raised by a Previous Appeal Decision. However, although the Council's consideration of the issue of overshadowing and loss of light is more general and subjective, I have agreed with their concerns.
4. Although the Previous Appeal Decision may not have specifically addressed the matters of outlook and an increased sense of enclosure, that does not mean that those issues should be set aside. The appellant also contends that the Council's delegated report does not address this issue, although comments from third parties refer to the 'overwhelming presence' of the flank wall and this issue is identified in the Council's first reason for refusal. The appellant has therefore had the opportunity to comment on this issue as part of the appeal process. As the issue of outlook is a valid concern then I do not consider that it is unreasonable for the Council to refer to it in its decision.
5. As can be seen from my Appeal Decision, I have agreed with the concerns that the Council raised in its first reason for refusal, and I therefore cannot conclude that the Council's consideration of this issue was unreasonable.
6. The Council's second reason for refusal referred to the lack of a Construction, Management and Logistics Plan, and the potential effect on the nearby Market.

However, in the Previous Appeal the Inspector concluded that this matter could be addressed by condition, as have I.

7. In support of its stance, the Council has referred to a change in the status of Colvestone Crescent since the Previous Appeal Decision. However, the appellant has referred to a lack of evidence in respect of detailed designs for Colvestone Crescent. This reflects my own observations, where little substantive evidence has been provided by the Council to support its concerns on this issue.
8. On the basis of the evidence before me, it has not been demonstrated that the circumstances of the appeal site have changed to a material degree compared to those at the time of the Previous Appeal. I conclude that the concerns of the Council on this issue could therefore have been addressed by a condition, and the Council's insistence otherwise without substantive supporting evidence represents unreasonable behaviour. The appellant has therefore been put to unnecessary expense in addressing this issue.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of addressing the second reason for refusal relating to construction access, and a partial award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Hackney shall pay to Ms Ann Tang of Nice Properties & Management Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the Council's second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council of the London Borough of Hackney, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Cross

INSPECTOR