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## Costs Decision

Site visit made on 7 November 2024

**by H Lock BA(Hons) DipTP MRTPI**

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

**Decision date: 29 November 2024**

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### **Costs application in relation to Appeal Ref: APP/B5480/D/24/3349258 10 Eversleigh Gardens, Upminster, RM14 1DR**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Muhammad Jamil for a full award of costs against the Council of the London Borough of Havering.
  - The appeal was against the refusal of planning permission for a single storey rear extension.
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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. Unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. Submitted drawing no. 51-1000-989 S05 Rev. P2 'Proposed Plans' shows a dimensioned extension depth of 3750mm from the original rear wall of the dwelling, rather than 3.1m. Although this dimension is next to the northern side of the proposed extension, using the scale bar, the same dimension would also apply to the side of the extension next to the shared boundary with 8 Eversleigh Gardens (No.8). On that basis, it was not unreasonable for the Council to have considered the proposal on the basis of a 3.75m deep extension, and therefore with a projection of approximately 6m beyond the neighbouring rear wall. I am not convinced that a site visit at that time would have altered this assessment given the information on the drawing.
4. Policy S7 of Havering Local Plan 2016-2031 (2021) sets out the requirement for development to avoid adverse impacts on the amenity of residents, and Section 5 of the Council's 'Residential Extensions and Alterations' Supplementary Planning Document 2011 (SPD) sets out supporting guidance on the depth of single storey rear extensions. SPD Paragraph 5.2 notes that the acceptable depth of any proposed rear extension will depend on a number of site-specific considerations.
5. Paragraph 5.3 of that document states that, as a general rule, houses can be extended from the rear wall of the original dwelling by **up to** 4 metres in depth for a semi-detached or detached dwelling. However, the purpose of this

guidance is twofold, taking into account the effect on the original dwelling and also to ensure a reasonable level of amenity is afforded to neighbouring properties. Given the requirements in Policy 7 and the list of circumstances to be taken into account in an assessment set out at paragraph 5.2 of the SPD, I do not consider that it was unreasonable for the Council to assess the effect of the development at the shared boundary in terms of its projection beyond the neighbouring property. This assessment would have been exacerbated by the submission of a plan showing a dimensioned depth of 3.75m. On this point, I do not consider that the Council acted unreasonably in the application of its policy and guidance.

6. There was one reason for refusal that encompassed several elements that the Council considered created an intrusive, overbearing and unneighbourly development. Although I have allowed the appeal, the Council's delegated report explained its reasoning in respect of the effect on the outlook from the property.
7. I have not reached the same conclusion as the Council in respect of overshadowing and loss of light arising from the proposal. The Council's delegated report does not explain in what way the proposal would result in loss of light and overshadowing, despite this point apparently being addressed in documents which accompanied the application. In accordance with the PPG, the Council's failure to produce evidence to substantiate this part of the reason for refusal, and inaccurate assertions about a proposal's impact unsupported by any objective analysis, would constitute unreasonable behaviour.
8. However, as this was not the sole aspect of the reason for refusal, the appeal would not have been avoided had the Council reached a different conclusion on this point. In order to justify an award of costs, unreasonable behaviour must directly have caused another party to incur unnecessary or wasted expense in the appeal process. It would appear from the list of documents on the planning application form that the information on this point was prepared to support that submission. As such, I am not satisfied that unnecessary expense resulted from addressing this aspect of the appeal.
9. Whilst I note the costs which the appellant advises will be incurred in altering the extension granted under ref. P0314.24, this would appear to be the result of a decision to build it in advance of the appeal being determined, rather than as a direct result of the appeal. The PPG is clear that costs that are unrelated to the appeal or other proceeding are ineligible, and that awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission<sup>1</sup>.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*H Lock*

INSPECTOR

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<sup>1</sup> Paragraph: 032 Reference ID: 16-032-20140306; Revision date: 06 03 2014