



Costs Decision

Site visit made on 15 October 2024 by M Long BA(Hons) MSc MRTPI

Costs decision made by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

**Costs application in relation to Appeal Ref: APP/U5360/D/24/3345611
63 Craven Walk, Hackney, London N16 6BX**

- 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 Sam Low for a full award of costs against the Council of the London Borough of Hackney.
 - The appeal was against a refusal to grant planning permission for 'excavation at basement level including front and rear lightwells; erection of a ground floor rear extension with sukkah roof'.
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Decision

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

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.
3. The PPG provides that Local Planning Authorities (LPAs) are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where development is prevented or delayed where it should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material considerations; where vague, generalised or inaccurate assertions are made about a proposal's impact which are unsupported by any objective analysis and in instances where relevant evidence is deliberately concealed at planning application stage or at subsequent appeal.
4. The appellant suggests that the Council's reference to the lightwell at 61 Craven Walk (No 61) is misleading. Indeed, the Council's report does not reference the appeal decision¹ at No 61. Not acknowledging the full circumstances at No 61 somewhat undermines the Council's assessment as it conceals the Inspector's finding in that case that the development could be made acceptable through a scheme of works which would have resulted in the basement at No 61 having a minimal effect on the character and appearance of the area.

¹ APP/U5360/C/17/3183757

5. Notwithstanding the above, it doesn't follow from the appeal decision at No 61 that any subsequent proposals to provide basements to dwellings on Craven Walk would automatically be acceptable. However, the lightwell proposed at 63 Craven Walk is not in any case comparable to the much larger front basement development which remains in situ at No 61. It is also different to the basement proposals that were refused at 59 Craven Road which are also referred to by the Council but again were of a more extensive scale. This is reflective of the Council's overall vague and generalised analysis of the proposal at No 63. More particularly, the Council's suggestion that the development would 'appear unsympathetic and discordant' has not been clearly substantiated for a lightwell of very limited scale and likely low level of perceptibility from the street.

Conclusion

6. For the reasons set out, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated. For that reason, a full award of costs is justified.

Costs Order

7. 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 Mr Sam Low, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. 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.

M Russell

INSPECTOR