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## Costs Decision

Site visit made on 17 December 2024

**by K Lancaster BA (hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

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### **Costs application in relation to Appeal Ref: APP/Y5420/W/24/3349327**

#### **85 St. Ann's Road, LONDON, N15 6NJ**

- 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 L Twersky for a full award of costs against the Council of the London Borough of Haringey.
  - The appeal was against the refusal of planning permission for a ground floor rear extension.
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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 (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 examples of unreasonable behaviour by local planning authorities. This includes procedural matters during the appeal and substantive matters relating to the matters under appeal. The substantive matters include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Other substantive matters include the failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. A further substantive matter is refusing planning permission on a planning ground capable of being dealt with by conditions.
4. The applicant is seeking an award of costs on the basis that the Local Planning Authority (the LPA) demonstrated a lack of willingness to engage constructively and adequately consider whether the proposed development could be made acceptable through the imposition of planning conditions, failed to determine the application in a consistent manner having regard to other extensions in the area and failed to substantiate each reason for refusal, having regard to the evidence submitted and relevant planning policies.
5. The applicant alleges that the LPA failed to engage constructively with the application and did not properly consider measures which could be taken to overcome any concerns. However, I have little evidence before me to demonstrate this. In the Officer Report the LPA refers to the use of conditions, and whilst there is limited reasoning provided to support their position, I am satisfied that the LPA did

- not act unreasonably by failing to consider whether the development could be made acceptable through the imposition of planning conditions.
6. I have also had regard to whether the imposition of planning conditions could overcome concerns about the potential for harmful levels of light pollution to occur. However, for the reasons set out in my decision found that there is no substantive evidence provided with the appeal to demonstrate that unacceptable harm would not occur and therefore, I cannot be satisfied that conditions would be able to mitigate any harm which might arise. On this basis, I find that the LPA did not act unreasonably.
  7. In relation to the existence of neighbouring extensions, whilst I understand from the evidence that some of the neighbouring properties have been extended, I have not been provided with any specific details of these developments, on which I could assess whether or not these are comparable to the appeal proposal. The LPA confirmed that some of these had been constructed without the benefit of planning permission and become lawful through the passage of time. However, I was not presented with any compelling evidence that these have set a precedent. Consequently, I find that the LPA did not act inconsistently or unreasonably. In any event, the fact that a precedent may exist does not justify harmful development. This is a matter of planning judgement for the decision maker, and opinions may differ.
  8. The applicant also alleges that the LPA failed to substantiate each reason for refusal, having regard to the evidence submitted and relevant planning policies. Although the LPA did not submit a Statement in response to this appeal, their justification for each of the reasons for refusal is set out in their Officer Report and refers to conflict with policies in the development plan.
  9. As can be seen from my appeal decision, I reached some similar conclusion to the LPA in relation to the adverse impact of the proposal on the character and appearance of the area and to the living conditions of neighbouring properties. I accept that there are a few references within the Officer Report to potential future residential uses which I agree were not relevant to the proposal as submitted. Nevertheless, I find that this does not amount to unreasonable behaviour.
  10. Furthermore, as I dismissed the appeal, it follows that the Council did not unreasonably withhold planning permission nor did it prevent or delay development that should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
  11. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*K Lancaster*

INSPECTOR