
Costs Decision

Site visit made on 9 December 2024

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Costs application in relation to Appeal Ref: APP/U5360/W/24/3346955

56 Alkham Road, Hackney, London, N16 6XF

- 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 Ashok Aruna 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 excavation of basement with front and rear lightwells, together with single storey side and rear extension to create a new self-contained flat.
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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. In claiming costs of the appeal, the applicant submits that the Council has acted unreasonably due to inconsistent decision making, failure to properly consider supporting evidence, subjective and unsubstantiated grounds for refusal, selective application of standards and lack of fair and transparent process.
4. Planning Practice Guidance (PPG) gives advice as to when local planning authorities will be at risk of an award being made against them. The examples listed within the PPG are reflected in the grounds provided by the applicant. As such, each of the grounds raised by the applicant is assessed below.
5. A previous permission for the excavation of the basement of the property to create a separate residential unit was approved under application reference 2017/3032. This permission was approved over seven years ago, prior to the adoption of the current development plan and, based on the evidence before me, was not implemented. The considerable length of time and changes to policy are sufficient grounds for the Council to give only limited weight to this earlier approval, in doing so it did not act unreasonably in this regard.
6. Based on its Delegated Report the Council accepted information within the Daylight and Sunlight Assessment submitted as part of the application for planning permission and did not include daylight or sunlight as a reason for refusal. As such there is no clear evidence to suggest that the Council did not properly evaluate and acknowledge this piece of supporting evidence.
7. The provision of a suitable outlook for future occupants is listed as a separate amenity standard within the development plan. Outlook is the measure of the

distance an individual can look outwards from their property. Within its delegated report the Council clearly explains that, based on the proposed plans, the limited distance between the rear opening and the wall surrounding the lightwell would not allow for a suitable outlook. The fencing above the lightwell was also highlighted as further limiting the outlook from within the main living area. As such the Council's concern in regard to outlook were supported by clear reasoning.

8. The applicant states that the Council have given planning approval for basement extensions with a similar or less favourable outlook. However full details of planning approvals, under the current development plan, have not been provided to substantiate this claim.
9. Within its delegated report the Council provided a clear and reasoned justification for its decision, which was based on policies within the current development plan. As the proposal is contrary to the development plan, the proposal does not constitute development that 'should clearly be permitted'. Therefore, if the applicant wished to seek an alternative outcome, they would have needed to submit an appeal in any case.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Livingstone

INSPECTOR