



Costs Decision

Site visit made on 30 April 2025

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2025

Costs application in relation to Appeal Ref: APP/H5390/W/24/3357571

3 Kelvedon Road, London SW6 5BP

- 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 Kelvedon Capital Ltd for a full award of costs against the Council of the London Borough of Hammersmith and Fulham.
 - The appeal was against the refusal to grant planning permission for the development of land carried out without complying with conditions subject to which a previous planning permission was granted for *'Variation of condition 2 of planning permission ref: 2020/02540/FUL granted 25th January 2021 for the 'Demolition of existing timber yard storage building and erection of a replacement part one, part three storey plus basement building with a roof terrace at first floor level to provide 1 x 1 bedroom residential unit (Class C3) with flexible commercial floorspace (Class E) at basement and ground floor level fronting Kelvedon Road and Darlan Road; erection of a part one and part three storey 2 bedroom single family dwellinghouse (Class C3) fronting Kelvedon Road elevation' to allow amendments to the approved drawings to include: alterations to north eastern elevation to change second floor roof window with a dormer window, enlargement of ground floor windows, alterations to south eastern elevation to increase the size of the dormer window, alterations to refuse storage, provision of an external amenity space associated with the Class E unit, additional high level window on the ground floor to be made fixed shut, alterations to south western elevation to allow all windows to be made of aluminium casement frames, additional window to roof level, dormer window panes to change from 3 to 2, ground floor north western wall to be set back further, increasing the size of the dormer of dwellinghouse, 2no exterior gutters to be constructed of cast iron, reducing the height of the front fencing/gates to 1.8m, alterations to north western elevation to include the additional of a conservation type roof window for bathroom, part of the top of boundary wall to be finished in lead, alterations to front basement lightwell, basement to extend to church wall, alterations to ground floor layout, additional obscure glazed panels in terrace of dwellinghouse, alterations to first and second floor layouts and AOV roof window over stairs of dwellinghouse'*.
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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. The appellant's application in this instance is for a full award of costs against the Council and is made on both procedural and substantive grounds.
3. The appellant seeks to utilise the Council's lack of appeal statement as a justification for an award of costs on procedural grounds. However, the appellant states that the application was 'fully supported by appropriate technical evidence'. That application was considered by the Council and assessed within a comprehensive officer report which the Council had before it when it dealt with the appellant's application submission. Although I do not agree with the Council's conclusions on the application, for the reasons set out in my appeal decision, I am satisfied that the Council's case is sufficiently clearly and comprehensively set out

within the officer's delegated report, which I have before me as part of the Council's appeal submission. The absence of a further statement of case at the appeal stage from the Council is not fatal to the Council's case, notwithstanding my conclusions in respect of the planning appeal, and does not amount to unreasonable behaviour on the Council's part. Costs may have been incurred in the preparation of the appeal submissions and through the appeal process, but those costs have not, I conclude, arisen from unreasonable behaviour on the Council's part.

4. Whilst I have some sympathy for the appellant regarding the circumstances that ultimately led to the submission of the application which is now before me, those relate to a previously application. I have no evidence before me that would lead me to conclude that the Council have not acted in a timely manner in determining this application, or in keeping to the relevant appeal timetables.
5. With regard to the content and wording of the Council's suggested condition 24, I do not agree with the applicant's view that this amounts to an admittance of support for the proposal and, thus, that the appeal could have been avoided. It is a well-understood element of the appeal process for conditions to be suggested and / or agreed between the parties as part of that process. This is done without prejudice to the respective party's cases, as is also the case in instances where an Inspector requests comments on, or makes suggestions, for conditions. Neither the Council's actions in respect of suggesting the wording of condition 24, nor its choice to rely upon its officer recommendation, were unreasonable, nor do they indicate an admission that the application should have been approved. I do not agree that the Council have acted unreasonably, and the application for a full award of costs against the Council cannot therefore succeed.

Conclusion

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and the application for costs is refused.

G Robbie

INSPECTOR