
Costs Decision

Site visit made on 25 June 2025

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2025

Costs application in relation to Appeal Ref: APP/U5360/W/25/3362931

28 Brooke Road, Hackney, London N16 7LS

- 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 Gluck 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 further excavation of existing basement level, together with front and rear lightwells, to facilitate amalgamation of studio flats 1 and 2 to form a 2-bed self-contained flat.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance 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 Officer's Report (OR) makes clear that the Council accepted the findings of the previous Inspector that front lightwells were a characteristic feature of the wider area. The OR also concludes that the principle of an additional lightwell at the site would not result in harm to local character. Therefore, I am unable to share the applicant's opinion that the Council disregarded the previous Inspector's findings in this regard or that it sought to reopen an issue that had already been resolved.
4. Notwithstanding the first reason for refusal, which refers solely to the front lightwell, the OR raised concern specifically in relation to the new flat front wall and window. These aspects of the proposal differed to the front bay that formed part of the earlier scheme that was dismissed at appeal. Given these differences, the Council was entitled to assess the development afresh and, having done so, raise a 'new' objection. The Council simply assessed the scheme that was before them. It does not 'move the goalposts' nor 'undermine the consistency of decision making'.
5. Although the size and shape of the bedrooms within the new flat were similar, with each served by a window and lightwell, it does not follow that the daylight received within these internal spaces would therefore be the same. Other factors can influence how light and bright a space feels including the orientation of the room, the size and placement of windows, the lightwell arrangements and any obstructions outside. Some of these factors would have been relevant in this case. The Council did not explain its position in these terms. However, it is not

inconsistent, in principle, to conclude that one room would receive adequate daylight while another room that is similar in size and configuration would not.

6. The Council did make rather vague and generalised assertions about the proposal's impact on the living conditions of future occupiers that were unsupported by any substantive objective analysis. Having found that the proposal would pass the 30-degree test, it is unclear on what specific grounds the Council concluded that the basement level accommodation would be substandard in relation to daylight. Similarly, few details were provided to explain the harm that, in the Council's eyes, would arise in relation to outlook other than a brief reference to the previous appeal scheme and the underside of the existing ground floor bay. On these matters, the Council has failed to substantiate its objections and so it has behaved unreasonably. The question then arises whether unnecessary or wasted expense has resulted from this behaviour.
7. Inevitably, opinion on the impact that a development may have on living conditions will vary because it involves an assessment that is partly subjective. The Council's Supplementary Planning Document *Residential Extensions and Alterations* also makes clear that the 30-degree test is a guide. A pass or fail is not in itself necessarily determinative because other considerations may be relevant or further tests required. Even if the issues of daylight and outlook were put to one side, the Council also considered that harm would arise to the visual character of the host building and its environs, which is explained more fully in the OR.
8. I can understand the applicant's frustration in having to recourse to appeal. However, given the fundamental difference of opinion between the main parties on the merits of the proposal, it is difficult to see how an appeal could have been avoided. To my mind, the Council was entitled to reach its view given the circumstances of this case. Taken overall, the evidence produced on appeal provides a respectable basis for the Council's stance.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and therefore an award of costs is not justified.

Gary Deane

INSPECTOR