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## Costs Decision

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

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### Costs application in relation to Appeal Ref: APP/X5210/W/22/3300405 29 Buckland Crescent, 2nd floor flat, London NW3 5DJ

- 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 Rojer Taylor White for a full award of costs against London Borough of Camden.
  - The appeal was against the refusal of planning permission for erection of lean-to conservatory extension to enclose part of existing side/rear roof terrace at 2nd floor level, including relocation of external door opening to access the remaining part of the terrace.
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### Decision

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

### Reasons

2. Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only 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 applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for reasons, as considered below.
4. The LPAs second reason for refusal relates to the effect of the proposal on the living conditions of the occupiers of 27 Buckland Crescent. This is based on the allegation that a flank window at 27 Buckland Crescent would be adversely impacted on by the proposal.
5. Irrespective of whether or not the LPA undertook a site visit in determining the applicant's planning application, as part of its appeal submissions, it has confirmed that the second reason for refusal was based on an oversight. Indeed, the flank window as identified by the LPA is actually bricked up and on that basis the LPA did not pursue its second reason for refusal at appeal.
6. Even so, and notwithstanding the LPAs submission defending its actions, the applicant's Design and Access statement includes an image of the neighbouring property which is annotated 'View from existing terrace towards Buckland Crescent' and shows the former window space in its bricked form. This in itself is not determinative, as the situation could have changed on site. Regardless, at the very least, this should have been questioned and investigated by the LPA. Moreover, this oversight manifested in a reason for refusal, which makes inaccurate assertions about a proposal's impact. I consider this to be an example of unreasonable behaviour.

7. However, to make an award of costs I need to be satisfied that this matter resulted in unnecessary or wasted expense in the appeal process.
8. In this case, the applicant's planning application was refused for another reason which relates to the effect of the proposal on the character and appearance of the Belsize Conservation Area.
9. Therefore, even if the LPA had not introduced its second reason for refusal, it is most likely that it would have still found the proposal unacceptable based on its first reason for refusal. Therefore, it is highly likely that an appeal could not have been avoided.
10. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

*M Aqbal*  
INSPECTOR