



Costs Decision

Hearing held and site visit made on 25 November 2010

by Terry G Phillimore MA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2010

Costs application in relation to Appeal Ref: APP/X5210/A/10/2131856 11 Hampstead Hill Gardens, London NW3 2PH

- 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 Paul Richards for a full award of costs against the Council of the London Borough of Camden.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of a single storey rear conservatory.
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Costs application in relation to Appeal Ref: APP/X5210/E/10/2131859 11 Hampstead Hill Gardens, London NW3 2PH

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Paul Richards for a full award of costs against the Council of the London Borough of Camden.
 - The hearing was against the refusal of listed building consent for erection of a single storey rear conservatory.
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Decision

1. I refuse the application for an award of costs on the appeals.

The submissions for the appellant

2. The costs application was submitted in writing prior to the hearing.
3. The essence of the application is that the Council behaved unreasonably in refusing the application based on an objection in principle, which it has been unable to substantiate. In addition, its view that there was an in principle objection to the proposal led it to refuse to meet to discuss the proposal, which would have enabled an understanding of the reasons behind the objection and possibly resolution of it, avoiding the appeals. The Council's email of 13 May 2010 suggested that there was scope for another proposal but no opportunity was given to discuss this. Wasted expense was therefore caused in the appeal process.

The response by the Council

4. A written response was provided at the hearing. In summary, it is contended that the objections to the proposal have been properly explained and justified, and there has been no unreasonable behaviour.

Reasons

5. Circular 03/2009 advises that, irrespective of the outcome of an 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.
6. The Council's objection to the proposal is put as one of principle. Explained in its written submissions and at the hearing as relating to the effect that any extension in the relevant position would have on the existing rear bay projection and other features of the building, this is comprehensible as it relates to the particular site. Decisions taken on other properties have limited relevance in this context, and there are no determinative precedents. The Council put forward a respectable case in terms of the effect the proposal would have on the historic assets of the listed building and the conservation area. The outcome of the appeals is a matter of judgement on these points.
7. Given the above there is no reason to believe that a meeting on the proposal could have led to a revised scheme capable of overcoming the Council's objection, thus avoiding the need for the appeals.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense as described in Circular 03/2009 has not been demonstrated and no award of costs is justified.

T G Phillimore

INSPECTOR