



Costs Decision

Site visit made on 18 August 2009

by **David Storrie** Dip TP MRTPI

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

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Decision date:
18 September 2009

Costs application in relation to Appeal Ref: **APP/X5210/A/09/2104541** Land at **55 Holmes Road, Kentish Town, London NW5 3AN**

- 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 MRJ Rundell & Associates for a partial award of costs against the Council of the London Borough of Camden.
- The appeal was made against the refusal of planning permission for the replacement of disused rooftop plant room with two new 2 bed flats and one new 3 bed flat over two floors.

Summary of Decision: The application is dismissed.

Reasons

1. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
 2. The Council's first reason for refusal raised concerns about the impact of the proposed development on the character and appearance of the building and the wider area by virtue of its height and bulk.
 3. The appellant considers that the design, height and bulk of the proposed development overcome concerns on these issues expressed in previous application decisions by the Council and a previous appeal decision where the Inspector did not object to the principle of development but was concerned about scale and design. The development was supported by officers in recommending approval. The appellant considers that the Council Planning Committee did not take account of how the proposed development overcame concerns expressed in the previous appeal decision and, in refusing planning permission, were unduly influenced by third party views.
 4. The application was submitted with supporting information, including a Design and Access Statement. I consider that the information submitted with the application provided sufficient information to properly assess the issue of impact on character and appearance of the host building and wider area. I note that, amongst other things, third parties raised concerns about the height and bulk of the proposed development and considered it to be overly dominant and incongruous. These concerns were fully detailed in the Officers report to the Planning Committee. It is evident, from this report that the Council took into account the appellant's case, the views of local residents and relevant development plan policies when determining the application.
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5. Paragraph B20 of Circular 03/2009 makes it clear that planning authorities are not bound to accept the recommendations of their officers but will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision. The assessment of the issue of the affect of the bulk and design of the development on the character and appearance of the host building and the wider area is a matter of judgement. The Council are not questioning the principle of development and I do not consider it unreasonable, in this instance, for the committee to take a different view from their officers, supported by development plan policies. I am satisfied that this position has been supported by appropriate evidence presenting the Council's concern on this.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not taken place.

Formal Decision

7. I dismiss the application for an award of costs.

David Storrie

INSPECTOR