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## Costs Decision

Site visit made on 15 November 2016

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

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

**Decision date: 25 November 2016**

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### **Costs application in relation to Appeal Ref: APP/X5210/D/16/3157095 49 Hartland Road, London NW1 8DB**

- 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 Cakir for a full award of costs against Council of the London Borough of Camden.
  - The appeal was against the refusal of planning permission for the erection of a mansard roof extension.
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance (the Guidance) advises at paragraph 30 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 expense in the appeal process. Paragraph 31 of the Guidance goes on to state that unreasonable behaviour may be either procedural or substantive in nature.
3. The application for an award of costs against the Council claims that the Council have demonstrated unreasonable behaviour in substantive terms, on the basis that they adopted a biased, pre-determined stance in respect of the proposal that is now before me. That bias, the appellant suggests, is based on the Council's fundamental misreading of the revised proposals that followed a previously refused scheme for a mansard roof extension at the appeal property that was subsequently dismissed at appeal<sup>1</sup>.
4. It is clear to me however that the Council considered, in some detail, the proposal that led to this appeal. The Council's delegated officer report clearly addresses the previous proposal and the Inspector's conclusions in respect of that scheme. It also recognises, and again considers in some detail, the revised elements of the current scheme.
5. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Council were not unreasonable in coming to that decision. It will be seen from my decision that I agree with the Council's conclusions regarding the erection of a mansard roof extension at the appeal property. I am satisfied that, in reaching their conclusion, the Council

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<sup>1</sup> APP/X5210/D/15/3138053

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have fully considered the proposal before them. I am also satisfied that in so doing, they gave appropriate consideration to, and assessment of, the previous Inspector's decision in relation to this property, to another Inspector's decision in relation to proposals on Healey Street<sup>2</sup>, and to other roof extension schemes elsewhere on Hartland Road<sup>3</sup>. I have not been presented with any evidence to demonstrate that the proposal was not considered on anything other than its planning merits.

6. The appellant has also expressed concern regarding the Council's initial decision to refuse to valid the application by invoking the provisions of section 70A of the Town and Country Planning Act 1990 (as amended) which allows local planning authorities to decline to determine planning applications in certain circumstances. As this appeal is against the refusal of planning permission rather than a failure to determine the application, it is clearly the case that the Council duly considered the application. Consequently, the Council's decision to invoke, and subsequently rescind, these powers is not a matter before me.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted extension during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

*Graeme Robbie*

INSPECTOR

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<sup>2</sup> APP/X5210/D/12/2168834

<sup>3</sup> At Nos 30 and 32 Hartland Road