



Costs Decision

Site visit made on 27 November 2019

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2020

Costs application in relation to Appeal Ref: APP/X5210/W/18/3213405 Flat A, 45 Lancaster Grove London NW3 4HB

- 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 L Silver for a full award of costs against the Council of the London Borough of Camden.
 - The appeal was against the refusal of planning permission for erection of ground floor rear extension and reinstatement of ground floor rear bay to match original condition.
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Decision

1. The application for award of costs is refused.

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance gives examples of the type of behaviour by local planning authorities that may constitute unreasonable behaviour including (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and (ii) not determining similar cases in a consistent manner.
4. The applicant states that the appeal was unnecessary as the proposal should have been permitted and that by wrongly refusing the application the Council delayed the process by forcing the current appeal. The applicant further considers that the proposal is similar to other cases where planning permission was granted at other properties along Lancaster Grove, with particular regard to length and height of those extensions.
5. It will be seen from my decision that I did not agree with all of the reasons for refusal given by the Council. However, it will also be seen that I have dismissed the appeal in respect of the design and height of the proposed extension and its relationship with the host building. In setting out reasons for refusal, I find that the Council provided clear arguments for refusing the proposal and in doing so had undertaken reasoned judgements and come to a reasonable conclusion, notwithstanding that I did not come to the same conclusion as the Council on all matters of dispute. Consequently, I am satisfied that there was sufficient justification for refusing planning permission on grounds relating to

character and appearance of the host building and the Belsize Conservation Area (BCA).

6. Turning to comparable cases, which are discussed in more detail in my decision, the extension at 67 Lancaster Grove, dating from 1987, is so historic as to be irrelevant to the reasonableness of current decision making. At 59 Lancaster Grove, the different policy framework at the time is such that it cannot be considered as a direct comparable. It follows that the same logic should apply to 71 Lancaster Grove. The extension at 65 Lancaster Grove is of a notably different design to the appeal proposal and therefore would have attracted a different range of considerations when the Council made its decision, notwithstanding any similarity in length.
7. In any case, as stated in my decision, in the varied historical context of the BCA, any meaningful assessment of an extension should involve consideration of the entirety of the individual design in the particular context of the associated and unique host building. In such circumstances, it is reasonable and proper that each case be assessed on its own merits.
8. Consequently, I am satisfied that the Council has shown that it was able to substantiate both its reason for refusal and the material differences between cases. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such the applicant was not put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Patrick Hanna

INSPECTOR