Costs Decision

Site visit made on 31 January 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 24 February 2017

Costs application in relation to Appeal Ref: APP/N5090/W/16/3161132
6 Great North Way, Hendon, London NW4 1JB

- 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 Monet Developments Ltd for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal of planning permission for a proposal described on the application form as 'redevelopment of site to provide 9 flats'.

Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 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 submits that the Council has acted unreasonably with regards to paragraph 49 of the PPG and the substance of the matter under appeal on three main grounds. Firstly, that the Council failed to produce evidence to substantiate the reason for refusal. In the delegated report, it is clear to me that the Council considered the increased height and alterations to the roof size and shape would cause harm to the character and appearance of the area. It would have been helpful if the report had provided an overview of the area's character and appearance, but the report was sufficient to understand the reason for refusal. The applicant provides an overview of the character and appearance in their appeal statement, but they would have had to do this regardless given the reason for refusal. Therefore, no unreasonable behaviour has occurred on this ground.

4. Secondly, the applicant contends that the Council was inconsistent in the determination of applications. They highlight different approaches taken in the officer's report for the 2014 permission and the report for the appeal scheme despite the similarities of the two schemes. I agree that it is odd that Policy DM15 was only applied to the current appeal scheme and no reference was made to Metropolitan Open Land in the report for the 2014 permission. However, there are material differences between the building granted permission in 2014 and the building subject to the current appeal. Thus, the

Council was not obliged to come to the same determination as they did in 2014. Although I have found that the differences between the two schemes are not enough to have dismissed the current appeal, this does not mean that the Council has been inconsistent. Therefore, no unreasonable behaviour has occurred on this ground.

5. Finally, the applicant contends that the Council made inaccurate and generalised assertions about the proposal’s impact. It is evident from the delegated report that the Council compared the 2014 permission to the appeal proposal and considered the effect of the altered building as a whole. Omitting reference to specific features did not result in inaccurate or generalised assertions. Therefore, no unreasonable behaviour has occurred on this ground.

6. I have found that no unreasonable behaviour has occurred that has led to unnecessary or wasted expense in the appeal process. The applicant points to costs relating to construction delays in having to appeal the Council’s decision. However, as paragraph 32 of the PPG makes clear, cost awards must relate to the appeal process and states that “awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission”.

Conclusion

7. For the reasons given above, no award of costs is made.

Tom Gilbert-Wooldridge

INSPECTOR