
Costs Decision

Site visit made on 22 February 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 13 March 2017

Costs application in relation to Appeal Ref: APP/N5090/W/16/3162853 29 Union Street, Barnet EN5 4HY

- 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 Maras Group for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal of an application for planning permission for the installation of replacement windows, insertion of eight rooflights and a blind dormer in the roof and erection of two juliet balconies to rear elevation (part retrospective).
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Decision

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

Reasons

2. National Planning Practice Guidance advises 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 expense in the appeal process.
 3. It also makes it clear that costs cannot be claimed for the period during the determination of the planning application although all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in determining whether or not costs should be awarded.
 4. The applicant is of the view that the Council have acted unreasonably in offering vague and generalised comments about the effects of the development both as built and proposed. They further comment that the brevity of the record of discussion on the merits of the scheme at planning committee is indicative of a clear lack of subjective analysis.
 5. Having read the committee's minutes, I accept they are brief and concentrate initially on proposals to accept or otherwise the case officer's recommendation. Whilst not setting out in detail the precise nature of discussion on the merits of the case, they do state the reasons for refusal in full. These state that members considered there would be harm to the character and appearance of the building and the Wood Street Conservation Area (WSCA). They also refer explicitly to the roof extensions to the west (dormer and roof lights) as well as
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the existing windows to the side and front. The harm is described as being specific to the size and unsympathetic nature of the additions overall.

6. The Council's appeal statement sets out further detail behind the reasons for refusal. The statement goes into some detail on the historical and architectural interest of the existing building, thus highlighting its significance. Whilst not being explicit, they clearly identify its positive influence on the character and appearance of the WSCA. It then emphasises, in some detail, concerns with the pattern of the windows to the side, the changes to the front windows and the addition of a dormer.
7. I accept some confusion would have been caused by paragraph 4.6 of the Council's statement, specifically where they mention the inappropriate treatment of the rear elevation. This was not a concern detailed on their decision notice. In addition, they do not expand in great detail on precisely why they considered the windows to the front inappropriate.
8. Clearly however, this is setting out the concerns discussed by members that equally as clearly, (since it did not appear on the decision notice) were not sufficient to be considered as a reason for refusal. It is of course regrettable that this is not made more explicit. In respect of the front windows, views on these are clarified by the detailed representation made by the Vice Chair of planning committee.
9. I can see that at times in the process of the determination of the planning application and the handling of the appeal, some commentary and evidence provided by the Council has been unhelpful. Information has been provided in support of their case through a number of sources and formats which has caused some confusion for the applicant.
10. However, when taken altogether, there was sufficient detail for the applicant to be able to respond to the concerns that the Council had with the proposed development. They were clear that the principle of the use was not in contention and the applicant was well aware of the works that had taken place for which planning permission was required and thus had full awareness of the focus of the subsequent appeal. These were limited to the exterior changes, namely new windows and a dormer.
11. It is for this reason that I do not consider the Council's conduct has amounted to unreasonable behaviour. Unnecessary expense during the appeal process has not been demonstrated and as such an award of costs is not justified.

John Morrison

INSPECTOR