The Planning Inspectorate

Costs Decision

Site visit made on 20 June 2017

by Nick Palmer BA (Hons) BPl MRTPI

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

Decision date: 6 July 2017

Costs application in relation to Appeal Ref: APP/N5090/W/16/3164702
Rear of 36 Hendon Lane, Finchley, London N3 1TT

- 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 the Council of the London Borough of Barnet for a partial or full award of costs against Mr L Lipman of Safeland.
- The appeal was against the refusal of planning permission for erection of a new house.

Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance advises that costs may 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 Council considers that it is clear that the proposal is contrary to planning policy and that on this basis it has incurred expense in defending an unnecessary appeal. The appellant did not discuss the proposal with the Council either before the application or before the appeal. The Council says that no material considerations were advanced by the appellant to justify a departure from the development plan. The Design and Access Statement submitted with the application was also relied upon for the appeal submission.

4. I have found similarly to the Council in my decision on the appeal including that the proposal would not accord with the development plan. However consideration of the main issues requires judgement taking into account the individual merits of the proposal, the nature of the surrounding area and relationship to adjacent properties. For these reasons it was not necessarily a clear cut matter that the proposal would not have accorded with the development plan and the appellant was clearly entitled to present his case as to why he considered that permission should be granted.

5. In the Design and Access Statement those reasons have been clearly articulated and a number of material considerations were put forward in respect of the merits of the proposal and the characteristics of the local area. Those points remained relevant in relation to the Council's reasons for refusal and it was thus not inappropriate that they formed the appellant's case for the appeal.

6. There is no evidence to demonstrate that negotiation between the appellant and the Council would have overcome detailed matters of design or the reasons

for refusal. The absence of any approach by the appellant to seek advice was not unreasonable behaviour as it is by no means clear that such discussion would have avoided the appeal.

7. For the reasons given I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Nick Palmer

INSPECTOR