
Costs Decision

Site visit made on 13 June 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 24 July 2017

Costs application in relation to Appeal Ref: APP/N5090/W/17/3172374 70 Hutton Grove, North Finchley, London N12 8DR

- 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 Billy Kin Pang 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 new build 3 bedroom house to the rear garden plot of 70 Hutton Grove.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.
 3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably during the consideration of the planning application by Planning Committee and which resulted in the decision to refuse planning permission being contrary to the recommendation of officers. The appellant contends that, as a consequence of the unreasonable behaviour of Planning Committee and a lack of any evidence on which to substantiate the reason for refusal, an appeal was necessary.
 4. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
 5. I consider that the reason for the refusal of the planning application were relevant to the application and clearly states the relevant policies of Barnet's Local Plan Core Strategy (2012) (Core Strategy), Barnet's Local Plan Development Management Policies (2012) (DMP) and the London Plan that the proposed development would be in conflict with. These policies, amongst other things, require that new development should create a high quality environment that preserves local character.
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6. The extent to which the proposed development impacts on the character and appearance of an area is a matter of subjective judgement guided by policies contained within the development plan. The Council properly considered the proposed development against the relevant policies contained within the Core Strategy, DMP and the London Plan. It is clear the prevailing spatial pattern of development in the area is that of dwellings set in traditional rectangular plots. It is also clear that the proposed development would not follow this pattern. It is therefore a matter for the decision maker, in this case the Planning Committee, to consider the extent to which harm would be caused to the character and appearance of the area as a consequence of the proposed development. This is a subjective judgement relevant to policies contained within the development plan.
7. I found that there were a number of factors that led me to conclude that the proposed development would not cause significant harm including its distance from neighbouring properties, its height and the relationship with the adjoining Synagogue. However, the fact remains that the proposed development does not reflect the prevailing spatial character of rectangular plots in the area. However, I found that the above factors contributed to a finding that harm to the character and appearance of the area would not be of such a significant extent to warrant the dismissal of the appeal. Just because I found differently to the Council on this matter does not mean to say that it was wrong in its approach or subjective judgement regarding the consideration of the impact on the character and appearance of the surrounding area.
8. Against this background, I find that Council Members were quite entitled to not accept the professional advice of Officers so long as a case could be made for a contrary view. Consequently, I do not consider that the Council acted unreasonably in their consideration of this matter at Planning Committee. The views of the Committee were adequately substantiated in the Decision Notice, were relevant to policies in the development plan and substantiated in the evidence provided in the appeal.
9. Taking all of these matters into account, I find that the reason for the refusal of the planning application was complete, precise, specific and relevant to the application. I have found that the Council had reasonable concerns about the impact of the proposed development on the character and appearance of the area which led to the decision to refuse the application. Although I have found differently from the Council this does not mean to say that Planning Committee's concerns had no basis. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided.
10. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR