

Costs Decision

Site visit made on 11 July 2017

by Martin H Seddon BSc DipTP MPhil MRTPI

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

Decision date: 02 August 2017

Costs application in relation to Appeal Ref: APP/N5090/D/17/3175560 Hideaway Point, Barnet Lane, Totteridge, London, N20 8AP

- 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 and Mrs Y Gozdanker 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 garden engineering works with new raised decking area to the rear with associated garden landscaping to front and rear gardens and associated level changes. Proposed installation of additional 1no. rooflight to south roof slope. Proposed installation of additional 2no. rooflights to north roof slope. Reinstatement of existing chimney to north roof slope with new GRP chimney to match existing.
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Decision

1. The application for an award of costs 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 appellants submit that:
 - the Council has prevented development which should clearly have been permitted, in that they have refused permission on grounds that could not have been complied with because of a failure by the Council;
 - the Council failed to produce evidence to substantiate reason for refusal 3, and that this has caused the appellants costs in preparing for an appeal;
 - the Council has made vague, generalized and inaccurate statements and assertions about the proposal's impact which are unsupported by objective analysis;
 - the Council has refused planning permission on a planning ground that was capable of being dealt with by conditions, and
 - the Council has refused to provide reasonably requested information, when a more helpful approach would probably have resulted in the issues

to be considered being narrowed, thus reducing the expense associated with the appeal.

4. In my main decision, I concluded that there is insufficient information for me to concur with the appellants or the Council on the matter of whether any protected trees had been removed or not. Although the Council has failed to produce evidence to substantiate reason for refusal 3, the evidence submitted by the appellants that no trees were removed is not compelling, having regard to the submitted pre-development and proposed landscape plans.
5. The appellants' position is that no protected trees were removed. In such circumstances, a condition requiring replacement tree planting would not have been reasonable.
6. Correspondence with the Council included the statement that: "My client is adamant no trees have been removed, only bushes that were noted on the application plans". However, whilst the Council did not specify which trees had allegedly been removed, the appellants did not provide details of the location, species or size of the bushes that had been removed.
7. I find that the evidence regarding removal of protected trees is not clear cut and insufficient information has been submitted by either main party on this matter. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Martin H Seddon

INSPECTOR