
Costs Decision

Site visit made on 23 October 2017

by S Jones MA DipLP

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

Decision date: 12 December 2017

Costs application in relation to Appeal Ref: APP/Q5300/W/17/3180282 51 Lancaster Avenue, Barnet EN4 0ER

- 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 Antoniou for a full award of costs against the Council of the London Borough of Enfield.
 - The appeal was against the refusal of planning permission demolition of an existing 2-storey detached single family dwelling and erection of a 5-bed single family dwelling, incorporating a basement and habitable rooms within the roof space.
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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 applicant states that costs should be awarded because the Council as local planning authority have acted unreasonably because their conclusions about the development were inaccurate or unsubstantiated. The Council was also unreasonably inconsistent because they have granted other similar developments nearby as illustrated in the applicant's Appendix 1-6 to the appeal statement. Also the Council officer did not visit the property but visited the neighbour at No 49 instead.
4. It is clear that the Council considered the proposed development against the development plan. The fact that other developments nearby have been granted permission does not derogate from the necessity of considering this one against all the criteria which could apply, and from the evidence of their report, I am satisfied that the Council have done so. The report does contain some inaccuracies, however I consider that these were minor and did not have any significant bearing on the decision to refuse the application. With regard to the effect of the development on the neighbouring properties, the Council's concerns clearly related to living conditions. Concerns about this remained after having considered the application in full, and the Council would not be under an obligation to propose solutions to this issue that had not yet been specified within the application at this final stage. I do not find that the Council have demonstrated unreasonable behaviour with regard to their conclusions.

5. With respect to the cases in Appendix, I do not have all the relevant facts or information in full relating to each of the examples. Furthermore, having visited the area and reviewed the examples, each case constitutes an individual design and location which would result in a different conclusion based on the facts of the particular case. An assessment of character and appearance would not be solely confined to which other dwellings obtained approval within the area since a design could be similar but nevertheless be found unacceptable overall because similar developments locally are not the only consideration in determining the case. Moreover, whilst not obliged to do so, it appears that the submitted final scheme did not reflect all of the recommended points referred to in the pre-application discussions. Regardless of these other examples or the pre-application discussions, it is apparent that this particular development at this particular location was unacceptable for several reasons justified by reference to the relevant policies. Consequently I do not find that the Council have shown unreasonable behaviour by inconsistency in their decision.
6. It is not disputed that the Council officer did make an attempt to visit the property itself. Access was obtained to the neighbouring property at No 49, and it is evident from the photographs provided that the Council officer was able to see into the rear of No 51 across to No 53 and assess the garden and rear topography of the appeal site as a whole. As the existing buildings at No 51 would be demolished, there would be no reason to visit them specifically, but a clear view of the rear would be necessary in order to assess the impact of the development. I am satisfied that this was obtained based on the evidence before me. Therefore I do not find that the Council have demonstrated unreasonable behaviour with regard to the visit to and assessment of the site either.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

S Jones

INSPECTOR