
Costs Decision

Site visit made on 28 November 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 21st December 2017

Costs application in relation to Appeal Ref: APP/N5090/W/17/3181347 77 Devonshire Road, Mill Hill, London NW7 1DR

- 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 Kenton of Avansis Developments Ltd 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 the demolition of 2 bungalows on site of 77 and 79 Devonshire Road and construct 4 terraced single family dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. For an application for costs to succeed, an applicant will need to demonstrate clearly how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes substantive matters such as preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
4. The planning history of the site, including the appeal decision, is noted. It is also acknowledged that the outcome of the application will have been a disappointment to the applicant. The costs application essentially relies on the fact that the Planning Committee overturned the approval recommendation made by the Council planning officer, and the application was refused.
5. The applicant contends that had this course of action not occurred then the application would have been approved. Consequently, an appeal and the associated costs would not have been necessary. Nevertheless, Council Members are not duty bound to follow the advice of the Council planning officers.
6. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policy of the

Development Plan that the proposal would be in conflict with. In addition, a sufficiently substantial case was made in support of all the reasons for refusal within the appeal statement. The fact that the Council concluded differently to my decision on this matter does not amount to unreasonable behaviour on their part.

7. It therefore follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

8. It is therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and so the application for an award of costs is refused.

Helen Cassini

INSPECTOR