
Costs Decisions

Site visits made on 16 July 2018 & 17 July 2018

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st August 2018

Costs application in relation to Appeal Ref: APP/N5090/W/18/3197410 Supported Fostering Services, 115C Brunswick Park Road, New Southgate, Barnet, London N11 1EA

- 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 Barry Glass of Investigate Ltd for a partial award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal of prior approval for the change of use from Use Class B1 (office) to Use Class C3 (residential) to provide 8 Units.
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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 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. This applies to both 'procedural' and 'substantive' issues.
3. The PPG indicates that local planning authorities will be at risk of an award being made against them if vague, generalised or inaccurate assertions about a proposal's impact are made which are unsupported by any objective analysis. The applicant's main concerns relate to the Council's second reason for refusal. This relates to the impact of a lack of additional off-street parking on highway safety.
4. The development was proposed under Schedule 2, Part 3, Class O of the General Permitted Development Order (GPDO). This requires a local planning authority to consider the highway and transport impacts of development. Such proposals are not subject to Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus compliance with development plan policy is not necessarily determinative. Nonetheless, such policies, along with national policy, can be considered relevant insofar as they relate to the matter at hand. In this case, the Council's policies on transport and parking would provide some assistance in assessing the potential impacts of development and thus were relevant to consider.
5. There was some dispute between the parties as to whether the development would meet the requirements of Barnet Development Management Development Plan Document (DMDPD)(2012) Policy DM17 with regard to parking provision. This allows for limited or no parking in areas where it can be demonstrated sufficient parking capacity exists. The applicant provided

evidence to this end, along with other supporting evidence purporting to demonstrate the development would not have an unacceptable impact on highway or transport issues.

6. The Council concluded that this did not demonstrate to their satisfaction that the development would not lead to transport impacts, particularly relating to parking on Brunswick Park Road. Much of the dispute between the parties relates to the interpretation of the evidence and whether it should have led to the conclusion it did. The applicant has suggested the Council and Highway Authority were selective in the use of the evidence, particularly focussing on streets where parking was at over 90% and not taking full account of evidence of lower levels of parking which existed elsewhere. However, I consider this amounts to nothing more than disagreements between professionals on how best to interpret the information provided. That the Council did not agree with the applicant is not unreasonable in principle.
7. I also consider that the Council is entitled to dissect the evidence provided and come to its own conclusions on its robustness and usefulness. In this case it would seem that they put greater weight on the evidence which suggested there were streets near to the site which were at a low capacity and where pressure was already at its greatest. I do not consider it unreasonable that they might tease out elements from the survey that give it cause for concern. While I have come to a different conclusion, this does not amount to unreasonable behaviour on the part of the Council.
8. Moreover, the Council acted on the advice of the Highway Authority who considered that any additional parking pressure in the area would exacerbate existing recognised problems. The Council indicated that they were considering parking restrictions in the area as evidence of the pressures and problems that already exist. While the applicant has indicated there has been no progress on this, it does not necessarily indicate that the Council were not justified in raising this as part of their argument against the development. That the Council has considered the need for such restrictions, has discussed them at a local residents' forum and are preparing a consultation exercise all points to there being some evidence of parking problems in the area. Again, while I agree with the applicant's view that the development would not have an unacceptable impact, the Council were not unreasonable in giving weight to this factor in their decision.

Conclusion

9. Taking all matters into account, I am satisfied that the Council did not rely on vague or generalised assertions in coming to a conclusion on highways and transport impacts. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S J Lee

INSPECTOR