

# **Costs Report to the Secretary of State for Housing, Communities and Local Government**

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Date: 9 January 2019

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**TOWN AND COUNTRY PLANNING ACT 1990**

**COUNCIL FOR THE LONDON BOROUGH OF BARNET**

**APPEAL**

**by**

**COMER HOMES GROUP**

Inquiry Held on 9-11 October and 9 November 2018

North London Business Park, Oakleigh Road South, London N11 1GN

File Ref: APP/N5090/W/17/3189843

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**North London Business Park, Oakleigh Road South, London N11 1GN**

- The application is made under the Town and Country Planning Act 1990, sections 78 and 320, and the Local Government Act 1972, section 250(5).
- The application is made by Comer Homes Group for a full award of costs against the Council of the London Borough of Barnet.
- The inquiry was in connection with an appeal against the refusal of planning permission for the phased comprehensive redevelopment of the North London Business Park to deliver a residential led mixed-use development.

**Summary of Recommendation: The application be allowed.**

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**The Submissions for Comer Homes Ltd**

1. The application was made in writing and is Inquiry Document 24, and the Applicant's final comments is Inquiry Document 26.

**The Response by the Council of the London Borough of Barnet**

2. The response was made in writing after the close of the Inquiry and is Inquiry Document 25.

**Conclusions**

3. 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.

4. Mr Griffiths, Principal Planning Officer at the Council of the London Borough of Barnet, was the Council's only witness at the Inquiry. He stated, in his proof of evidence, that "It is not the intention for this document to represent my professional opinion and the evidence presented represents the views of elected members of the London Borough of Barnet Planning Committee".

5. The proof of evidence focusses on a particular view contained within a TVIA submitted by the Applicant and states that "Within View 11, the 8-storey height of Blocks 1E and 1F stands in harmful juxtaposition with the two-storey height of the properties on Howard Close". But the proof acknowledges "...that buildings of up to 7 storeys in height could be acceptable in this location therefore it is pertinent to outline the additional harm that would arise from the 8 and 9 storey buildings proposed within the development and why these heights are unacceptable".

6. The written evidence fails to substantiate why the extra storey on Blocks 1E and 1F would cause harm and fails to consider the effect of buildings over seven storeys in height elsewhere in the development. The proof simply repeats the assertion made in the sole reason for refusal of the application that "The proposed development, by virtue of its excessive height, scale and massing would represent an over development of the site resulting in a discordant and visually obtrusive form of development that would fail to respect its local context...to such an extent that it would be detrimental to the character and appearance of the area".

7. Under cross examination Mr Griffiths refused to answer some questions put to him and to give his professional view on the effect of the proposed development on the character and appearance of the area. The Appellant was not thus afforded the opportunity, at the Inquiry, to explore the unsubstantiated assertions made in the

proof of evidence and did not learn anything more about members concerns. Crucially, no member of the Planning Committee appeared at the Inquiry to substantiate their views that was unsubstantiated in the proof of evidence.

8. The Council has failed to produce either written or verbal evidence to substantiate the reason for refusal of the application, and has provided only vague and generalised assertions, unsupported by an objective analysis, about the proposed development's impact. The Council has behaved unreasonably and the Appellant has incurred unnecessary expense in the appeal process. A full of award of costs against the Council is justified.

### **Recommendation**

9. The application for a full award of costs be allowed.

*John Braithwaite*

Inspector

10.

**Recommendation**

11. I recommend that the application for a full award of costs be allowed.