



Costs Decision

Site visit made on 9 December 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2020

Costs application in relation to Appeal Ref: APP/N5090/W/19/3237465 259 Oakleigh Road North, Whetstone N20 0DG

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Rose for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal to grant approval under Schedule 2, Part 3, Class JA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use from A1 (shop) to B1(a) (offices) at Ground Floor.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application centres on the applicant's claim that the Council failed to substantiate their reason for refusal, due to lack of sufficient analysis and evidence.
4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate their reasons for refusal.
5. Regarding the matter of substantiation of the Council's reasoning, I find as follows. The Council made an assessment of whether it would be undesirable for the appeal building to change its use to B1a office, because of its impact on adequate provision of retail services. As set out in its Delegated Officer's Report, this assessment included consideration of the following: the applicant's proposal, including marketing evidence; public consultation responses; professional consultee advice and knowledge; the vitality of the parade; and its role in providing services for residents, including those without a car.
6. I appreciate that the applicant takes a different view from the Council, including on the matter of whether the site is within a 'key shopping area'.
7. However, for the reasons described above, I find that the Council set out a reasonably substantive and considered view, citing a range of evidence presented.

8. As a result, it follows that I cannot agree the Council has acted unreasonably in this case.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

William Cooper

INSPECTOR