



Costs Decision

Site visit made on 20 October 2020 by C Brennan BAE (Hons) M.PLAN MIPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Costs application in relation to Appeal Ref: APP/N5090/D/20/3253443 261 Nether Street, Ballards Lane to Dollis Road, London N3 1PD

- 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 Mansour Malekyazdi for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal of the Council to grant planning permission for roof extension involving gable ends, rear and side dormer window, changes to fenestration, new side entrance door and canopy.

Decision

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

Application Procedure

2. The Appeal Planning Officer's recommendation is set out below to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably where this has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by unreasonably refusing or failing to determine planning applications.
 4. In their statement and grounds of appeal, the applicant asserts that a previous application, Ref 19/5108/FUL, was invalidated by the Council as it related to a new unit, No 261a, which had been approved under a previous application but which had not yet been implemented. Another similar application which is the subject of the appeal before me, Ref 20/1512/HSE, was then submitted to the Council. Although the Council had expressed in correspondence during the course of 19/5108/FUL that they were supportive of the proposed works, the Council proceeded to refuse 20/1512/HSE on the basis of its effect on the character and appearance of the site and surrounding area.
 5. While I have some sympathy for the applicant, the Council are not required to base a decision on comments provided by a planning officer during the course of a previous application, even if the two schemes were similar. Moreover, From the decision notice and delegated report, it is clear to me that the Council refused the scheme before me with due regard to the context of the site and the development plan, and so I do not consider that they acted unreasonably.
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6. Also, costs can only be awarded if the Council behaved unreasonably and created unnecessary expense for another party in the appeal process. No award of costs can be granted for the Council's behaviour during the determination of an application not subject of the appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Conclusion and Recommendation

8. For the reasons given above and having had regard to all other matters raised, I recommend that the application for an award of costs should be refused.

C Brennan

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for costs is refused.

Andrew Owen

INSPECTOR