
Costs Decision

Site visit made on 9 February 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2021

Costs application in relation to Appeal Ref: APP/N5090/D/20/3261036 21 Riverdene, Edgware HA8 9TA

- 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 Udenwa 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 a single storey rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The PPG states that *"where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application"*.
3. The applicant claims that the local planning authority (LPA) acted unreasonably in so far that they did not give appropriate weight to the fall-back position in respect of the prior approval development¹. I am, however, satisfied that the LPA did reasonably take this matter into account in reaching its decision to refuse planning permission. Indeed, the delegated officer report states *"the structures approved under ref number 20/2012/PNH are not in situ and therefore are not considered as a material fall-back sufficient to outweigh the harm with regard to the Development Plan and other material considerations. Therefore, the development will be assessed as one development in its entirety"*.
4. It was essentially a matter of planning judgement in terms of the weight to be given to the prior approval development as a fall-back position. While the LPA did not afford such a fall-back position as much weight as I did in the appeal decision, this does not mean that it did not weigh the matter in the overall planning balance or, in this regard, that it acted unreasonably.

¹ Application Reference No 20/2012/PNH dated 28 May 2020.

Conclusion

5. For the above reasons, I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, a full award of costs is not justified.

D Hartley

INSPECTOR