



Costs Decision

Site visit made on 21 January 2021

by Baljit K Muston BA(Hons) PGDip MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2021

Costs application in relation to Appeal Ref: APP/N5090/W/20/3260193 6 Cornwall Avenue, Finchley, London N3 1LD

- 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 Ceka Gramos and Ilias Anoichtomatis for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was made against the refusal to grant permission for the conversion of the existing dwelling into two self-contained flats with associated bin and cycle storage, and enclose the existing porch.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably, and where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted, having regard to the development plan, national policy and any other material considerations. As examples of behaviour that may give rise to a substantive award of costs against a local planning authority, the PPG also lists failure to produce evidence to substantiate each reason for refusal on appeal.
 4. The applicants state that the Council failed to properly consider either their own policies, or policies and standards in the London Plan, when considering the impact of the upper floor dwelling not providing external amenity space. In particular, they argue that the Council failed to consider the exception tests in these documents, or the close proximity of public open space to the appeal site.
 5. However, I agree with the Council, for reasons set out in my appeal decision, that the appeal proposal does not amount to exceptional circumstances, and that the appellants have not put forward a planning obligation as an alternative to providing private amenity space for the flat on the first and second floors. In addition, I do not consider that the presence of Victoria Park in the vicinity
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of the appeal site makes up for the lack of any private amenity space for a unit of a size that would be likely to appeal to families. It follows that I do not consider the Council to have been unreasonable in refusing the application on grounds relating to that lack of amenity space.

6. The applicants also quote from Policy DM17 of the Local Plan in their costs claim. They argue that the policy states that, where it can be demonstrated through a parking survey that sufficient car parking spaces are available on the street in a controlled parking zone (CPZ), then a restriction on car permits would not be required. However, the policy is quite clear that this is only the case outside of a CPZ, and that within a CPZ, a legal agreement restricting future occupiers from obtaining on street parking permits would still be required.
7. In dealing with the second reason for refusal, the Council were not arguing that the proposal would result in harm to highway safety, severe or otherwise, but rather that unacceptable parking stress might arise in the vicinity of the site. On the basis of the information before me at appeal stage, and for the reasons set out in my appeal decision, I agree with the Council on this point.
8. The applicants also argue that the Council's highways team have data that confirms the number of car parking spaces available in Cromwell Avenue compared to the number of car parking permits issued. Other than this assertion by the applicants, I have seen no further evidence as to whether this is indeed the case, whether the highways team did use such data in deciding to object to the application, or what that data might show. I therefore cannot comment further on this point.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Baljit K Muston

INSPECTOR