
Costs Decision

Site visit made on 10 February 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2021.

Costs application in relation to Appeal Ref: APP/N5090/W/20/3257367 38-40 Sydney Grove, Hendon, London NW4 2EH

- 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 Sean Breslin 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 the demolition of 38-40 Sydney Grove and the construction of a 2-storey detached building with rooms in the roof space to provide 6 no self-contained flats including associated refuse and cycle storage and 3 no off-street parking spaces.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The applicant considers that the Council has persisted in objections to a scheme that an Inspector has previously indicated to be acceptable. In doing so, the applicant says that the Council has introduced spurious additional reasons for refusal that he considers had been addressed in the earlier appeal and that circumstances have not materially changed in the interim.
4. There are obvious similarities between the proposal and an earlier 5-flat scheme on the site that was allowed on appeal, which is hereafter referred to as 'the approved scheme'. However, there are also some notable differences between them especially in the number and mix of new residential units and their expected occupancy levels. Collectively, these matters represent a substantive change to the development compared to the approved scheme. As such, it was appropriate for the Council to assess the consequences of the proposal afresh. For the same reason, the Council was not bound by previous Inspector's findings or inconsistent in its decision making since these related to a different scheme albeit that earlier appeal decision was clearly relevant.
5. The Council's objections are clearly expressed in the reasons for refusal and expanded upon in the evidence, with clear reference to relevant development plan policies. These concerns focused primarily on the effects of the development on local character, on the living conditions of existing and future occupiers and on highway safety, parking and traffic flows. The reasons why the development should not be permitted are clearly conveyed through the

Council's statement of case. While the applicant disagrees with those concerns, the Council's objections were not unfounded or spurious.

6. The applicant says that Officers raised no objection to any aspect of the scheme including those in its Traffic and Development Department. However, the Council is not bound to accept the recommendations of its officers. To my mind, the Council had reasonable planning grounds for taking a contrary decision and has produced relevant evidence on appeal to support that stance.
7. The applicant is also critical of the Council in failing to consider imposing conditions that he considers would have overcome the objections identified. However, the Council's concerns were wide ranging and some related to the fundamentals of the scheme. In those circumstances, it is difficult to see which planning grounds could have been resolved in this way, certainly to the extent that it would have enabled the development to proceed.
8. My assessment of the effects of the proposal differs from the Council's approach. I consider this arose because I made different judgements on the evidence before me, rather than because of inadequacies in the content of the Council's case. That I came to a different conclusion and allowed the appeal does not mean that the Council failed to show clearly why in its view the development should not be permitted or that it failed to substantiate its case.

9. The applicant has also made very serious allegations that the Council has provided some information that is manifestly inaccurate or untrue. If these matters relate to maladministration, they should be made to the Local Ombudsman if the Council's own complaints procedures have been exhausted.

Conclusion

10. Overall, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Gary Deane

INSPECTOR