

Costs Decision

Site visit made on 11 May 2021

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Costs application in relation to Appeal Ref: APP/N5090/W/20/3258016 Land at 46 Moss Hall Grove, North Finchley, London, N12 8PB

- 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 Generative Developments & Properties Ltd 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 conversion of a single dwelling house into 3no self-contained flats with associated amenity space, refuse storage, cycle stores and off-street parking. Provision of glazing at the rear at ground floor.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Paragraph 049 of the PPG makes clear that a local planning authority is at risk of an award of costs if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations or if they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant's case rests on an interpretation of Policy DM01 of Barnet's Local Plan (Development Management Policies), 2012, and whether the term "characterised by houses" requires the whole of the street or the majority of the street to comprise of houses for the policy to apply. It is the appellant's case that where the street includes other types of development, such as, in this case purpose-built flats and a school, it cannot be "characterised by houses" and the policy does not allow for it to be applied to only part of the street.
5. As set out in my main decision I disagree with this interpretation. To characterise is to describe character or be characteristic of. Characteristic

means typical of or distinctive or indicative of character. Nothing in these definitions leads me to conclude that to be characteristic the particular element must be exclusive or even in the majority. Rather, it should be typical of or distinctive.

6. As set out in my main decision, I consider Moss Hall Grove to be characterised by two types of residential development: houses and purpose-built flats. Both are typical of and distinctive in the street. The school, in my view is neutral in the assessment of residential character. Moreover, there are distinct sections of the street characterised by one or other type of residential development. They are not mixed along its length and the western end is strongly characterised by houses. Therefore, the Council has, in my view, applied Policy DM01 in a reasonable and cogent manner, assessed the impact of the proposed development against it and concluded that the appeal proposal would conflict with it, as well as with Core Strategy Policy CS5.
7. I agree with the appellant that the use of the phrase “consists primarily of single family dwellinghouses” in the Council’s reason for refusal is misleading. Policy DM01 does not require the street to consist primarily of single family dwellinghouses in order to apply. Nevertheless, the Council’s evidence makes clear that in assessing the appeal proposal against Policy DM01 it was correctly applied and that in the view of the Council, a view with which I agree, Moss Hall Grove is characterised by houses and that character would be harmed by the proposed conversion.
8. The Council supports its position with two appeal decisions. In both cases previous Inspectors have interpreted Policy DM01 in a similar way to the Council and as I have interpreted it also. The appellant, on the other hand, seeks to apply a narrow interpretation which is not supported by the policy wording or explanatory text.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

KE Down

INSPECTOR