

Costs Decision

Site visit made on 24 August 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCIArb MCIL

an Inspector appointed by the Secretary of State

Decision date: 01 October 2021

Costs Application in relation to Appeal Ref: APP/N5090/D/21/3270577 131 Meadfield, Edgware, London, HA8 8XL

- 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 Harie Matia Elkiess for a full award of costs against Barnet London Borough Council.
 - The appeal was made against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA, Paragraph AA.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for "the erection of one additional storey immediately above the existing building".
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Formal Decision

1. I refuse the application for an award of costs against Barnet London Borough Council.

Submissions on behalf of H M Elkiess

2. The appellant points out the aims of the costs regime and argues that the Council have misapplied the permitted development legislation. It is argued that "the LPA may consider only the appearance and design of the principal elevation, and not the context of the wider terrace". Hence, it is claimed that the local planning authority have failed to follow the legislation and case law and that they have failed to substantiate their reason for refusal.
3. In consequence, it is asserted that the appeal should have been avoided and that the local planning authority's handling of the application and appeal has been unreasonable. An application is made for an award of the full costs of the appeal.

Submissions by Barnet London Borough Council

4. The Council's reason for refusal identifies their objections to the scheme based on the appearance of the proposed development. They do not specifically address the application for an award of costs but their approach is set out in the Officer's Report on the application, dated 23 February 2021. The report sets out the reasons why the local planning authority decided that "prior approval is required and refused".

Reasons

5. 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. It is clearly the case that a party which fails to correctly apply the legislation or to follow case law may be at risk of costs.
6. In this case, I have not accepted the appellant's interpretation that the decision-maker "may consider only the appearance and design of the principal elevation", since I note that such a consideration is included as part of a wider appraisal of the "external appearance of the dwellinghouse".
7. Thus, in not accepting the interpretation of the legislation that has been put forward by the appellant, I have, essentially, adopted the same approach as the Council. I have considered the submissions in relation to the appearance of the proposed development and I share the concerns of the local planning authority. I have dismissed the appeal, in consequence.
8. In short, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the 'Planning Practice Guidance', has not been demonstrated and I have refused the application for costs against Barnet London Borough Council.

RC Shrimplin

INSPECTOR