The Planning Inspectorate

Costs Decision

Site visit made on 23 August 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2021

Appeal Ref: APP/N5090/W/21/3269567
7A Brook Lodge, Argyle Road, North Finchley, London N12 7HS

- 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 Flavio Arnaldi (Sterling Developments (London) Limited) against the decision of the Council of the London Borough of Barnet.
- The appeal was against the refusal of the Council to grant planning permission for the demolition of existing detached dwelling and garage block and construction of 2No. 3 bedroom detached dwelling units.

Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The appeal was made against a refusal to grant planning permission for the demolition of an existing detached dwelling and garage block and construction of 2No. 3 bedroom detached dwelling units. It is claimed that the Council have acted unreasonably in their determination of the application in considering that the sequential test should be applied at the site in relation to flooding. An application for a full award of costs is therefore made.

4. The Framework[1] advises that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.

5. In relation to the implementation of the sequential test the WLSFRA[2] states that proposed development sites within multiple flood risk zones are classed under the highest flood zone present on site. Therefore, under the WLSFRA, the site would be treated as if it were in Flood Zone 3 and a sequential test would be required.

6. I have detailed within my Decision Letter why I consider that there are site specific circumstances which warrant a different approach. In effect, it appears that the LPA have afforded more weight to the WLSFRA than I have within my decision.

[1] National Planning Policy Framework 2021.
[2] West London Strategic Flood Risk Assessment.

7. However, this in itself was not an unreasonable position to arrive at, given that it is for the decision maker to afford weight to various matters and come to an overall conclusion, even though I have not come to the same conclusion myself.

Conclusion

8. For the above reasons, I conclude 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.

T J Burnham

INSPECTOR