



Costs Decision

Site visit made on 19 November 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 DECEMBER 2021

Costs application in relation to Appeal Ref: APP/N5090/W/21/3272276 Adastra House, 401-405 Nether Street, London N3 1QG

- 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 Mizen 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 demolition of existing building and construction of a six-storey detached building with a roof terrace plus basement parking for 19 cars to provide 140 sqm of class B1 office floorspace on the ground floor and 34no. self-contained residential flats on the upper floors, associated amenity space, refuse storage, cycle parking landscaping works. without complying with conditions attached to planning permission Ref 15/05632/FUL, dated 8 September 2015.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG outlines that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals.
4. The applicant is of the view that the local planning authority behaved unreasonably for this reason, and that they refused planning permission on a ground that was capable of being dealt with by the imposition of planning conditions. They consider that they have been put to unnecessary and wasted expense.
5. As can be seen from my decision, I have found that the mechanism that was sought to be used to deliver the proposed development to be procedurally incorrect. It is inappropriate, therefore, for me to consider the planning merits, in terms of alleged unreasonableness, in this costs application.
6. I appreciate that the applicant has submitted an appeal and costs application directly challenging the Council's reason for refusal, however I have not been

able to consider the planning merits of the case given that the wrong procedure has been followed. So, whilst it is an unfortunate procedural error it does not amount to unreasonable behaviour. It would therefore be inappropriate for me to award full costs to the applicant for the reasons that have been put forward.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated. Therefore, a full award of costs is not justified.

A M Nilsson

INSPECTOR