
Costs Decision

Site visit made on 7 February 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2022

Costs application in relation to Appeal Ref: APP/N5090/W/21/3278340 369-383 Alexandra Road, London N10 2ET

- 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 Cubhill Limited 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 creation of a second-floor level with new pitched roof to facilitate the provision of 4no. additional self-contained units.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of an 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 applicant has alleged that the Council behaved unreasonably through imposing its second reason for refusing planning permission. This sets out that the introduction of rear balconies would result in unacceptable losses of privacy and sunlight for neighbouring occupiers at No 367 Alexandra Road (No 367).
4. Even when acknowledging the intention to install privacy panelling to the side of new balcony areas and the existence of planting to the rear of the appeal building, the northernmost proposed balcony would offer the potential for elevated close-range views to be obtained at oblique angles of at least part of the rear garden space serving No 367. Thus, notwithstanding my findings upon the planning appeal that is the subject of this application, and whilst acknowledging that a degree of mutual overlooking already exists, it was not unreasonable for the Council to allege harm. Moreover, the Council's guidance, including the Sustainable Design and Construction Supplementary Planning Document (October 2016), does not specify that potential privacy considerations should only apply where neighbouring garden space is set out directly to the rear of new residential development.
5. When noting the orientation of the site and the second-floor height of the proposed works, it was also not wholly unreasonable for the Council to allege a harmful loss of sunlight for the occupiers of No 367. This is without prejudice to my findings upon the planning appeal.

6. For the reasons set out above, development was not prevented or delayed that should clearly have been permitted and unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR