



Costs Decision

Site visit made on 8 March 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2022

Costs application in relation to Appeal Ref: APP/N5090/W/21/3284369 25 Prayle Grove, Cricklewood, London NW2 1BA

- 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 Mrs Nina Sadet for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for change of use from a dwelling (C3 Use) to a 6 bedroom 6 person HMO (C4 Use) including construction of porch, part single, part two storey, side and rear extensions following demolition of existing garage.
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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 where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. It goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal. Examples given of unreasonable behaviour include preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations; and refusing to provide requested information when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or narrowing of the issues to be considered.
3. The National Planning Policy Framework encourages local planning authorities to approach decisions on proposed development in a positive and creative way. In this case, the Council did not determine the application within the prescribed period, and has not disputed the applicant's assertions that it did not enter into discussions or indicate when a decision would be made. I appreciate that this may have led to stress and inconvenience to the applicant. However, I have no firm evidence that the delay and/or lack of communication were the result of inappropriate or improper intervention by a Councillor, and I do not consider the limited evidence before me clearly demonstrates that these factors amount to unreasonable behaviour on the part of the Council.
4. Moreover, the PPG advises that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage. The costs regime does not therefore extend to costs which are unrelated to the appeal, or to indirect costs

that may have resulted from the applicant seeking to understand the reason for the delay.

5. I have found that the Council's concerns in relation to the need for the proposal and the effect of the development on the character of the area and the living conditions of neighbouring occupiers were well founded. My conclusions with regard to the acceptability of the proposed parking arrangements differ from the Council, but this reflects matters of planning judgement, and I am satisfied that the Council's evidence sufficiently justifies its position. Consequently, I do not consider that this is a case where there has been unreasonable delay to a development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
6. While the Council's lack of communication and failure to determine the application within the prescribed period is regrettable, it is therefore unlikely that better communication could have enabled the appeal to be avoided. I do not find that the evidence before me demonstrates that the applicant has been put to unnecessary or wasted expense in pursuing the appeal.
7. For these reasons, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

J Bowyer

INSPECTOR