



Costs Decision

Site visit made on 12 April 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2022

Costs application in relation to Appeal Ref: APP/N5090/W/21/3286838 49 and 51 Beresford Avenue, Whetstone, London N20 0AD

- 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 the Council of the London Borough of Barnet for a partial award of costs against Mr Millen, Millen Homes Ltd.
 - The appeal was against the refusal of planning permission for development described as 'outline application with landscaping reserved for the demolition of no.51 Beresford Avenue and the erection of 6 semi detached dwellings and 1 detached dwelling on land at 49 and 51 Beresford Avenue, Barnet N20 4AD'.
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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 where a party has behaved unreasonably and where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. It goes on to advise that an appellant is at risk of an award of costs being made if an appeal had no reasonable prospect of succeeding. Examples given of situations where this may occur include when development is clearly not in accordance with the development plan and material considerations to indicate the decision should have been made otherwise are not advanced or adequately evidenced; or when the appeal follows a recent appeal decision in respect of the same or a very similar development found unacceptable and circumstances have not materially changed in the intervening period.
3. The application for costs relates to the Council's first reason for refusal which concerns the effect of the proposal on the architectural integrity of the buildings currently on the site and the wider street scene. In support of its application, the Council refers to a February 2017 decision dismissing an appeal for development involving the demolition of 51 Beresford Avenue¹ ('the 2017 Appeal'). In particular, it highlights the Inspector's findings at paragraph 5 that the proposal would introduce an incongruous type of development not already present, and that the demolition of No 51 would make the surviving house look ungainly and out of place in the street scene.
4. I acknowledge that the current appeal also involves the demolition of No 51. I have reached a similar conclusion to the Inspector in the 2017 Appeal that this would cause the retained dwelling at 49 Beresford Road to appear awkward and unbalanced, and would lead to a discordant feature in the street scene. Be that as it may, it seems to me that how the retained building would appear in

¹ Appeal ref APP/N5090/W/16/3157594

the street scene, and whether it would be out of place, is at least in part informed by its surrounding context.

5. The current appeal includes a replacement detached dwelling that was not part of the 2017 Appeal proposal. In my view, this would undoubtedly alter the context in which the retained dwelling at No 49 is seen, and its relationship with its surroundings, and I consider it a material change from the 2017 Appeal. Although I have ultimately found that the replacement dwelling would not address the detrimental effect of the demolition of No 51 on the character and appearance of the area, that is a matter of planning judgement, and I do not consider that such a conclusion was necessarily inevitable. Had I reached an alternative view, this may furthermore have altered my assessment regarding the compliance of the scheme with the development plan.
6. For these reasons, I am unable to say with certainty that the appeal had no reasonable prospect of succeeding in relation to the first reason for refusal. I do not therefore consider that the appellant behaved unreasonably in pursuing the appeal, nor do I find that the appeal has resulted in unnecessary or wasted expense, as described in the PPG. Accordingly, the application for an award of costs is refused.

J Bowyer

INSPECTOR