



Costs Decision

Site visit made on 25 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2022

Costs application in relation to Appeal Ref: APP/N5090/W/21/3284811 197 Hendon Way, London NW2 1JJ

- 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 the change of use from a dwelling (C3 use) to an 8 bedroom 9 person HMO (sui generis use) including demolition of the existing garage, new front porch, roof extension involving rear dormer window new gable window to side elevation and part single, part two storey side and rear extensions.
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Decision

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

Reasons

2. The application for an award of costs will be familiar to both parties. Consequently, I shall not repeat the submission in full within this decision. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.
3. The applicant's case sets out that they seek an award of costs on the basis that the Council has failed to enter into discussions during the statutory time period. They highlight that the Council's approach is contrary to paragraph 38 of the National Planning Policy Framework, and they have not worked proactively with the applicant. The applicant has had to seek professional advice to lodge the appeal. This has caused the applicant undue stress, cost and inconvenience to establish and understand the reason for delaying an application. They consider that the appeal proposal clearly accords with the development plan and there are no sound planning reasons to withhold planning permission and it should have been granted without delay.
4. The Council highlights that the reasons for the delay relate to staff illness, complexity of caseload, and resourcing issues. They state that they do not have a record of any correspondence with the applicant or agent. The Council

assert that the appeal statement sets out their consideration of the planning merits and substantiate reasons for refusal.

5. Having regard to paragraph 48 of the PPG, the Council has explained their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period. Similarly, my dismissal of the appeal means that the Council's behaviour has not prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Furthermore, I am not convinced that additional dialogue would have resulted in a different overall outcome.
6. For the reasons set out above I conclude that, the applicant has not shown that the Council has behaved unreasonably and that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. I conclude therefore, that the application for an award of costs should be refused.

L Wilson

INSPECTOR