The Planning Inspectorate

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: 16th August 2022

Costs application in relation to Appeal Ref: APP/N5090/W/21/3284340
79 Chandos Avenue, London N20 9EG

- 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 Mr and Mrs Deepti Haria for a partial award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal to grant planning permission for the demolition of existing dwelling and erection of a two storey dwelling with rooms in the roofspace and 3no. off street parking and associated refuse and recycling and outbuilding in the rear garden.

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 seeks an award of costs on the basis that the planning committee should have not alleged that the proposal would result in overshadowing and a loss of daylight, when planning officers advised this not to be the case. Furthermore, this view was not supported by evidence and facts drawn from a technical assessment. They assert that the applicant was forced to instruct a right to light specialist. The applicant also states that, without good reason, there was a significant delay between the application being deferred and being put to the planning committee.

4. The applicant considers that the Council has 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. In addition, they have failed to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

5. The Council highlight that Council Members are not obliged to follow the advice of officers and can conclude a completely different decision. They state that the reasons for refusing the application contrary to the Officer's advice are clearly set out in their statement. They also assert that many items are designated per committee meaning that an application may wait some time to be heard and determined.

6. Council Members are entitled to go against the professional advice of Officers as long as it is clearly demonstrated why the proposal is unacceptable and clear evidence is provided to substantiate that reasoning. The objection comments highlighted that there were concerns relating to the proposal's impact on neighbouring properties. Furthermore, part of the reason the application was considered at committee related to this matter.

7. Whilst the daylight and shadowing report helps to support the scheme, there was no requirement for the applicant to produce such a report. The Council's Statement of Case and reasons for refusal were clear and sufficient evidence was submitted to support the Council's stance. The application required an exercise of planning judgement. Adequate evidence was submitted to show that the Council did not apply its judgement in an unreasonable manner.

8. Consequently, whilst I have found in favour with the applicant's case in this regard, I do not consider that the Council has prevented development that should clearly have been permitted, having regard to the development plan, national policy and other material considerations. For the reasons set out above, the applicant has not shown that the Council's refusal of planning permission was unreasonable 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