
Costs Decision

Site visit made on 27 March 2023

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Costs application in relation to Appeal Ref: APP/N5090/D/23/3315744 12 Newton Avenue, Muswell Hill, Barnet, London N10 2NB

- 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 Rajiv Desai 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 a single storey rear extension, conversion of a garage to a habitable room and a porch.
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Decision

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

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses, but the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in such unnecessary or wasted expense.
3. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal - for example by relying on vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The claimant submits that the Council has based its refusal on incorrect assumptions about the situation at 13 Newton Avenue next door, particularly in regard to a conservatory and a window.
4. I am not convinced that the Council has misapprehended the situation. No 13 does have a conservatory and a non-obscure glazed ground floor window at the back, as referenced in the Council's report. In the appeal decision, I find that these are far enough away from the shared boundary to minimise the impact on their outlook and light, but they are material to the decision. The Council's report does not clearly refer to an existing covered patio structure at No 13, which is somewhat unhelpful, but this is not a major omission from what is inevitably a short analysis.

5. Although I have not agreed with the Council's planning assessment, I find that it has not relied on vague or inaccurate assertions and that it has set out a reasonably objective analysis. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Les Greenwood

INSPECTOR