



Costs Decision

Site visit made on 8 September 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Costs application in relation to Appeal Ref: APP/N5090/W/22/3312438 1C Shelley Close, Edgware, Barnet HA8 8DX

- 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 Ms Monica Khirya (Shelley Close London Ltd) 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 demolition of the existing dwelling and garage and the erection of 4no. two storey semi-detached dwellings. Associated landscaping, car and cycle parking and refuse/recycling storage.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The Council provided a written pre-application response to the applicant in relation to submitted proposals for, initially, the erection of 6 dwellings and then, following some amendments, 5 dwellings. The detail of the Council's pre-application advice therefore related to a different proposal to that the subject of the appeal. I accept that as a part of the pre-application advice provided the Council did indicate that a revised scheme of a maximum 4 dwellings could be acceptable. However, I find that the language used by the Council in this regard exhibited caution and the Council advised that further pre-application discussions be entered into. The advice of the Council at pre-application stage is provided without prejudice and cannot pre-determine the outcome of a subsequent application. Given these factors, the Council did not act unreasonably in refusing planning permission for the 4 houses the subject of the appeal even if it had given some indication such a development may be appropriate.
4. An agreement could have been reached to extend the determination period of the planning application. This could have enabled re-consultation with the local highway authority in respect of the parking survey and amended parking provision. Potentially, it could also have permitted further time for a biodiversity calculation to be submitted and assessed. However, coming to such an agreement is not mandatory. The Council had other concerns with the proposed development that would, regardless, have likely remained and these concerns persisted despite some of the amendments to the scheme that were

submitted. The Council also offered an alternative option which was to withdraw and resubmit the planning application with some revision options provided for the applicant's consideration. When the Council provided these alternative development options, I have no substantive evidence that the Council gave inappropriate weight to relevant development plan policies.

5. Although I have identified that the effects of the proposed development upon the character or appearance of the area and upon the living conditions of neighbouring occupiers would be acceptable, these are matters of judgement. It can be seen from my appeal decision that, amongst other matters, the proposed houses would be more visible and imposing than the bungalow they would replace whilst tree loss would be quite significant. It was not unreasonable of the Council to come to the opposing conclusion that the local area and the neighbouring occupiers would be harmed nor that the submitted landscaping scheme, or revised version of it secured via condition, would not provide sufficient mitigation to overcome its concerns.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

H Jones

INSPECTOR