



Costs Decision

Site visit made on 16 July 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 July 2024

Costs application in relation to Appeal A Ref: APP/N5090/W/24/3340038 65 Golders Green Road, Golders Green, Barnet, London NW11 8EL

- 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. Sifa Gokaslan 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 extractor fan opening to rear elevation.
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Costs application in relation to Appeal B Ref: APP/N5090/Y/24/3340037 65 Golders Green Road, Barnet, London NW11 8EL

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms. Sifa Gokaslan for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal of listed building consent for extractor fan opening to rear elevation.
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Decision – Both Applications

1. The applications for the full award of costs for Appeal A and Appeal B are refused.

Procedural Matters

2. The two applications concern the same scheme under different, complementary legislation. I have dealt with both applications together within a single decision letter.

Reasons

3. 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.
4. The applicant submits that it was unreasonable for the Council's Environmental Health Officers to insist that a large, external exhaust stack was required to address odour problems even though the appellant's extraction specialist had said that one was not necessary. They state that the Council's insistence on this is not understandable as technology exists to avoid a tall external stack and, in any event, the Council's Conservation Officer advised that such a stack would be objected to on heritage grounds.
5. The applicant also states that the appellant tried to reach the Environmental Health Officers to establish why the specification report and its findings were

unacceptable but that these attempts were rejected quickly. They suggest that the professional report was disregarded even though it had been requested by the Council during the determination of the application. Further, it is stated that the Council's cited planning policies do not specifically require a tall stack and apply more generally to safeguarding neighbouring amenities.

6. It is regrettable that the Council's Environmental Health Officers did not appear to directly engage with the applicant or their extract specialist during the determination of the applications. I also recognise that the applicant is potentially in a difficult situation being advised that a tall external stack is required for adequate ventilation and yet also being told that such a stack would not be permissible on a listed building.
7. However, from the information before me, the Environmental Health Officers were clear with their advice based on experience of similar premises in the area and the site-specific circumstances. Their suggested conditions also illustrate the fairly considerable level of detail required to satisfy them that no harm would arise to neighbouring amenities. Whilst it may be that a tall external stack is not necessary, and I note that this is not a requirement of the relevant planning policies, but as I have explained in my decision, the specialist report does not demonstrate in detail that all site-specific matters have been fully considered. Therefore, sufficient information has not been provided to be sure beyond any reasonable doubt that harm would not be caused to neighbouring occupants once the specified equipment has been installed and maintained in accordance with a service contract.
8. These appeals have focussed predominantly on odour issues as the main reason for refusal. Given the interconnected nature of the two appeals, I note that the appellant has not substantially added anything further regarding the listed building consent appeal. Consequently, there is no suggestion that defending this element of the appeal has added unnecessary extra costs.
9. Accordingly, I consider that the Council did not behave unreasonably in its assessment and determination of the applications for planning permission and listed building consent. As such, there can be no question that the applicant incurred unnecessary or wasted expense in the appeal process.

Conclusion – Both Applications

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and thus an award of full costs is not justified.

G Bayliss

INSPECTOR