



Costs Decision

Site visit made on 9 July 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 4th September 2024

Costs application in relation to Appeal Ref: APP/N5090/W/23/3331099 184 East Barnet Road, Barnet EN4 8RD

- 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 Freshwave Facilities Limited for a full award of costs against the Council of the London Borough of Barnet.
- The appeal was against the refusal of the Council to grant planning permission for the erection of an 18m telecommunications pole, 3 no. antenna apertures, 2 no. dishes and 4 no. equipment cabinets along with ancillary development thereto.

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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process, or substantive, relating to issues arising from the merits of the appeal.
3. The applicant asserts that the Council has acted unreasonably by not working proactively with them and refusing the application without allowing the scheme to be amended, as well as not considering the need for the mast in this location.
4. The proposal follows a previous application¹ for a mast on this site which was refused. The applicant did not submit a pre-application enquiry and therefore had not sought the advice of the Council as to whether reducing the height of the mast would result in it being acceptable in this location. Moreover, as the applicant had the reasons for refusal in the decision notice for the former scheme, it was aware of the relevant issues that the Council had considered previously.
5. Furthermore, as this was the second scheme on this site, which the Council was also minded to refuse, it was unlikely that any amendments to the scheme would have made it acceptable and led to a different outcome. Finally, as the Council discussed the need for the mast in its officer report, I conclude that they have considered this issue.

¹ Ref 22/3728/PNT

Conclusion

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

M J Francis

INSPECTOR