



Costs Decision

Site visit made on 14 May 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Costs application in relation to Appeal Ref: APP/N5090/W/23/3326949 12 - 18 High Road, East Finchley, London N2 9PJ

- 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 Deniz N2 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 grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
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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 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 applicant contends that the Council, and specifically its Planning Committee acted unreasonably in preventing development which should have been permitted by making vague, generalised, and inaccurate assertions not supported by objective analysis, and failing to take into account similar cases, notably previous planning permissions on the same site.
4. The Committee was not bound to accept the advice of its officers to grant permission, provided that it was able to substantiate the reasons for its decision. There can be no disputing that the development constructed on site is substantially similar to that which has already been permitted by the Council on previous occasions. However, the decisions on those schemes were based upon plans showing the positions of neighbouring residential properties and site boundary incorrectly plotted. The applicant sought to address this in the appeal submission, by providing revised drawings based on accurate survey information, commissioned and paid for by neighbours. By that stage, however, the development had already generated a substantial amount of public interest and members of the Committee felt duty-bound to take account of, and give significant weight to, the objections received.
5. Bearing in mind the updated Daylight and Sunlight Report dated 23 June 2023 was only submitted in support of the appeal, it was not unreasonable for the Committee to reach its decision having regard to the evidence before them, and the representations from neighbours who felt that the previous decisions had been reached based on erroneous plans and were concerned by what they

perceived to be a harmful development already under construction. In my opinion, the appellant should accept that its previous mistakes have led to the present scenario.

6. That I have allowed the appeal does not automatically make the Committee's behaviour unreasonable. Given the circumstances of the case, the background leading up to the decision, and the difficult position this placed Committee members in, the Council's behaviour was not unreasonable. On the contrary, it is entirely reasonable to expect the appellant, in exercising their right of appeal in this case, to meet their own expenses, as indeed is the expectation in most planning appeals.
7. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated. An award of costs is not warranted.

L Clark

INSPECTOR