



Costs Decision

Site visit made on 26 June 2024

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 16 October 2024

Costs application in relation to Appeal Ref: APP/N5090/W/23/3334885 24 Babington Road, Hendon, Barnet, London NW4 4LD

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr N Khimani 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 the conversion of single residential dwelling (use class c3) into house of multiple occupation (use class c4) - for maximum 5 persons only
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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. Planning permission was refused by the Planning Committee against the professional advice of officers. This in itself does not constitute unreasonable behaviour and Members are not bound to accept the recommendation of their officers. However, it is necessary to consider whether the Council has provided relevant evidence to show that there were reasonable planning grounds for taking a contrary view.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal. Consequently, it is necessary to consider whether the Council has provided relevant evidence to show that there were reasonable grounds for their view.
5. The area is characterised by mixed residential uses, such that the development would not be unusual given the existing character of the locality. The Council has failed to produce any substantive evidence to explain its concerns regarding character. Accordingly, it has not been adequately demonstrated that this was a reasonable ground for refusal.
6. The high density of existing HMOs¹ and student accommodation indicates that the neighbourhood is already accustomed to the dynamic lifestyle and activity which is associated with such dwellings. There is no evidence before me of any

¹ House of Multiple Occupation

noise complaints being made regarding the appeal site, despite the change of use occurring approximately two years ago. Accordingly, it is unclear what harm would occur to the living conditions of neighbouring occupiers, given that one additional HMO is unlikely to result in a significant change in disturbance levels. Accordingly, it has not been adequately demonstrated that this was a reasonable ground for refusal.

7. Although the development is located within a controlled parking zone, the evidence before me is that parking stress in the locality is low. As such, it strongly indicates that there is sufficient capacity available for additional on-street parking. The Council has not provided any substantive evidence to justify its concerns that there would be an increase in kerbside parking which results in harm to the free flow of traffic or highway and pedestrian safety. Accordingly, it has not been adequately demonstrated that this was a reasonable ground for refusal.
8. Accordingly, the applicant has incurred unnecessary or wasted expense in the appeal process. There is no evidence before me as to why there were reasonable planning grounds for taking a view contrary to the advice of officers.
9. For the reasons given, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Barnet shall pay to Mr N Khimani, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the Council of the London Borough of Barnet, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Lo

INSPECTOR