



Costs Decision

Site visit made on 29 October 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2024

**Costs application in relation to Appeal Ref: APP/N5090/W/24/3343583
21 Featherstone Road, Mill Hill, Barnet, London NW7 2BL**

- 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 Mr Mark Shupac for a full award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission demolition of the existing bungalow. Erection of a 1.5 storey detached house.
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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. In claiming costs of the appeal, the applicant submits that the Council has acted unreasonably. Which is contrary to paragraph 38 of the NPPF which states that local planning authorities should approach decisions on development in a positive and creative way.
4. It is also asserted that the Council gave misleading and contradictory advice during the determination process which they consider led to delays and resulted in a clear procedural failing on the part of the Council.
5. Planning Practice Guidance gives further advice as to when local planning authorities will be at risk of an award being made against them. The examples listed as unreasonable behaviour on procedural grounds include a lack of co-operation with the other party and delay in providing information or other failure to adhere to deadlines. Examples cited as unreasonable behaviour on a substantive basis refer to preventing or delaying development which should clearly be permitted.
6. The Council entered into negotiations with the applicant and sought revisions to the design of the proposed replacement dwelling. Notwithstanding this, despite an indication otherwise, the revised design did not resolve its fundamental objection to the proposal. While the applicant may have been made aware of this, a formal decision was not provided in a timely manner.
7. The Council may have acted unreasonably in some respects. However, it would have refused the application. As the proposal is contrary to the development plan, the proposal does not constitute development that 'should clearly be

permitted'. Therefore, if the applicant wished to seek an alternative outcome, they would have needed to submit an appeal in any case.

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Livingstone

INSPECTOR