
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: 27 December 2024

Costs application in relation to Appeal Ref:

APP/N5090/W/24/3344101

27 Daws Lane, Mill Hill, Barnet, London NW7 4SD

- 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 Sumit Agarwal for a partial award of costs against the Council of the London Borough of Barnet.
 - The appeal was against the refusal of planning permission for demolition of Nos 27-29 Daws Lane and the erection of a three storey building with rooms in roof space to provide commercial floorspace (Class E office space) at ground floor level and a 9 room HMO above. Erection of a part single part two storey detached building at the rear of the site, to provide 6no self-contained flats. Associated amenity space, refuse/recycle store and cycle storage.
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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. It is asserted that the Council have 'substantially over asserted or misrepresented' the degree of harm that would result from the proposed scheme. In light of this the appellant states that the Council failed to give appropriate consideration to a number of factors in their assessment of the proposal, particularly in relation to the impact of the proposed development on the living conditions of neighbouring occupants in regard to noise and disturbance and outlook.
4. Within the Delegated Report the Council provided a clear and reasoned justification for its decision, which is based on policies within its current development plan. Within the report the Council defines the 'prevailing character' of the area as 'single family dwellinghouses and flats'. In forming such a narrow definition of the established character, the Council may have been unreasonable in some respects as it fails to

account for the mix of uses in the area, which includes commercial, retail and residential.

5. However, as the scheme is contrary to the development plan, the proposal does not constitute development that 'should clearly be permitted'. As such, if the applicant wished to seek an alternative outcome, they would have needed to submit an appeal in any case.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Livingstone

INSPECTOR