
Costs Decision

Site visit made on 16 November and 13 December 2016

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th January 2017

Costs application in relation to Appeal Ref: APP/G5180/W/16/3156413 St Raphaels Residential Home, 32 Orchard Road, Bromley BR1 2PS.

- 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 Methodist Homes for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of planning permission for the demolition of the existing care home and the erection of a part one/two/three storey building with an additional storey of accommodation within the roofspace comprising 75 retirement living apartments (50 x 2 bed and 25 x 1 bed) with basement level ancillary facilities, parking for 52 cars (33 at basement level, 19 at surface level) cycle parking spaces, refuse storage and landscaping.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. It is incumbent upon the Council to defend its reasons for refusing planning permission. In this case the decision was taken contrary to officers' advice, but that is not an unreasonable position so long as the Council can subsequently justify its position. There were 2 reasons for refusing planning permission and the Appellant has alleged unreasonable behaviour in respect of both.
 4. The first reason for refusal relates to the impact of the development on the character of the area. This is essentially a matter of judgement and as will be seen from the appeal decision I place more weight in this instance on the evidence supplied by the Council. The appeal statements of both main parties clearly set out their respective positions on this matter, and in the case of the Council it adequately sets out the objections to the development. There are references to height, scale and mass, and the fact the proposal would dominate the street scene and be uncharacteristic in its relationship with the surroundings. The statement goes on to consider plot coverage and the overall quantum of development. I am satisfied that the Council has provided sufficient information to make a respectable case in defence of its position and hence there has been no unreasonable behaviour regarding the first reason for refusal.
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5. The second reason for refusal relates to the provision of parking spaces and consequent impact on highway conditions. Whilst the Council's own expert highway advice accepted the Appellant's submitted highway information as robust, my decision makes it clear that I am less sure that that is the case. In addition I agree with the Council that the comparators used are likely to be inadequate. In short I accept that the Council's case here is justifiable. Given the proposed use, the likely nature of the occupants and the location, the Council's evidence that the number of spaces likely to be provided is inadequate is a reasonable position to take. In my decision on the appeal I have not determined that the result of the development proceeding would be severe residual highway problems, but nor am I able to conclude otherwise based on the evidence. Again I consider that the Council has defended its position adequately and that no unreasonable behaviour has occurred.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Philip Major

INSPECTOR