
Costs Decision

by Elaine Gray MA(Hons), MSc, IHBC

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

Decision date: 18 January 2017

**Costs application in relation to Appeal Ref: APP/D5120/W/16/3160746
45 Hartford Road, Bexley DA5 1NG**

- 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 Fox Bros (Bexley) Ltd for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the refusal of planning permission for erection of 2 x 2 bed dwellings with associated amenity space.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. Paragraph 049 of the Planning Practice Guidance states that the local planning authority will be liable to an award of costs where it fails to produce evidence to substantiate a reason for refusal, or where it makes vague, generalised or inaccurate assertions about the impact of the appeal proposal, which are unsupported by any objective analysis.
 4. The appellant submits that the Council has acted unreasonably by disregarding the advice of its professional officers without good reason and failing to substantiate its objection on the grounds of harm to the living conditions of neighbouring occupiers. The Council is not duty bound to follow the advice of its professional officers. However, if a contrary decision is reached, the Council must clearly demonstrate why a proposal is unacceptable on planning grounds, and provide clear evidence to substantiate that reasoning.
 5. The matter was discussed at the relevant committee meeting, as shown in the submitted minute. However, it appears to me that little substantive evidence was put forward by the Council to support the reasons for refusal, and demonstrate exactly how the development would harm the living conditions of neighbours. For example, the committee minute does not specify which properties at Albert Road the Council considered would be affected, or detail how they would be affected. The Council has submitted a statement of case, but this document gives no further detail in this regard. To that extent, I find that the Council has acted unreasonably in restricting itself to generalised
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assertions about the impact of the proposal, contrary to the requirements of the PPG.

6. Nonetheless, the reasons for refusal set out in the decision notice are worded clearly, and show that the Council had reasonable concerns about the impact of the proposed development which, in my view, justified its decision. It was necessary for the appellant to address those concerns, and so the appeal could not have been avoided. As may be seen from my own decision, which accompanies this costs decision, I agreed with the Council's overall conclusion in respect of impact on living conditions, and dismissed the appeal on similar grounds.

Conclusion

7. I therefore conclude that, although I have found unreasonable behaviour for the reasons given above, it has not been demonstrated that this behaviour caused unnecessary or wasted expense on the part of the appellant, as described in the Planning Practice Guidance. As a result, no award is made.

Elaine Gray

INSPECTOR