
Costs Decision

Site visit made on 17 January 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 13 February 2017

Costs application in relation to Appeal Ref: APP/G5180/W/16/3161591 Rear of 88 High Street, Penge, London SE20 7HB

- 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 Ms Ekaterina Alimova 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 conversion of garage to one bedroom flat.
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Decision

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

Reasons

2. 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. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.
 3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably by failing to undertake adequate communication with the appellant during the consideration of the planning application and failed to clearly state the reasons for the refusal of planning permission.
 4. I have no evidence to indicate the extent to which any communication with the Council remained unanswered or the extent to which this was relevant to the planning merits of the case. Whilst I recognise the appellant's concerns regarding communication with the Council, this is a matter that should be addressed to the Council in the first instance through its complaints procedures. The appellant's satisfaction, or otherwise, with the Council's communication procedures is not a matter relevant to the consideration of the planning merits of this appeal.
 5. Consequently, I have no evidence to conclusively prove that any lack of communication on behalf of the Council was relevant to its consideration of the planning merits of the proposal to an extent that this would constitute unreasonable behaviour as described in the PPG.
 6. The reasons for the refusal of planning permission as set out in the decision notice are specific and relevant to the application. It also clearly states the policies of the Bromley Unitary Development Plan (UDP) and the London Plan
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that the proposal would be in conflict with. This reason was adequately substantiated by the Council in the Officer Report and the Appeal Statement which demonstrate how the proposal would not provide adequate and acceptable living accommodation for the occupants' of the proposed unit.

7. From the evidence before me it was clear that the Council considered the adequacy of the proposed accommodation against the relevant saved policies contained in the UDP and the minimum floorspace requirements as set out in the Minor Alterations to the London Plan. For the reasons set out in the appeal decision, I too have concerns that the proposal would not provide satisfactory living accommodation. I came to this decision on the basis of my consideration of the details and merits of the proposal, having regard to all of the evidence submitted.
8. Accordingly, I have no evidence to suggest that any alleged lack of communication on the part of the Council would have been material to the consideration of the planning merits of the proposal or resulted in any different outcome on the application. In addition, I do not consider that the Council failed to properly evaluate the application, consider the planning merits or adequately state the reasons for the refusal of planning permission by reference to the appropriate policies contained in the development plan that the proposal was in conflict with. I have found that the Council had reasonable concerns about the adequacy of the accommodation space and outlook from the proposed flat which justified its decision.
9. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR