
Costs Decision

Site visit made on 4 January 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 17 February 2017

Costs application in relation to Appeal Ref: APP/G5180/W/16/3158746 Royce House, 56A Copers Cope Road, Beckenham BR3 1RJ

- 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 Matthew Oliver, South East Living Group 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 two existing separate detached dwellings known as 56a & 56b Copers Cope Road, and the erection of 4 No. three bedroom semi-detached houses, all with off-road parking and associated landscaping.
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Decision

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

Reasons

2. 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 or wasted expenditure in the appeal process. The Planning Practice Guidance¹ (PPG) sets out that local planning authorities are at risk of a substantive award of costs where they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The costs application relies on the fact that Council officers recommended that the application be approved but that Council members disagreed and refused it. The applicant considers this behaviour unreasonable and has led to wasted costs in making the appeal. He has pointed to comments a Councillor is purported to have made to the Planning Committee considering the application. The Council has not challenged the applicant's account of the discussion which led to the application being refused however the Committee Minutes simply record the decision and the refusal reason.
4. In particular the applicant has highlighted arguments which included a discussion of a proposed Area of Special Residential Character (ASRC) an issue on which the applicant considered the Councillor was mistaken. Indeed this is not mentioned in the Council's reason for refusal which refers to the character of surrounding development and amenities of the area.
5. Council members are not bound to follow the advice of their officers provided the decisions they make are reasonable and can be substantiated. Whilst

¹ Paragraph: 049, reference ID: 16-049-20140306.

Council members decided to take a different view from that recommended in the officer's report the Council did provide a full reason for refusal including reference to relevant development plan policies.

6. Furthermore, irrespective of any discussions at the Planning Committee, the Council's subsequent appeal statement provided substantiated arguments, again referencing relevant development plan policies, to support their decision. These were not vague, generalised or inaccurate and referred to site and area specific characteristics in support of their case. I can, however, appreciate the applicant's concerns that apparently unrelated considerations, including that of an ASRC, appeared to have formed part of the deliberations of the Planning Committee.
7. The consideration of the proposal's effect on the area's character and appearance is a subjective one. The interpretation of policies relating to such matters requires judgement and objective analysis as does taking consideration of the implications of the previous appeal where the Inspector dismissed a scheme on the site and which raised similar issues. The Council's appeal statement demonstrates this.
8. The PPG² states that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. Accordingly, notwithstanding that the appeal has been allowed, I do not consider that the Council acted unreasonably in taking a decision contrary to that recommended by their officers.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

Geoff Underwood

INSPECTOR

² Paragraph 050, reference ID: 16-050-20140306.