
Costs Decision

Site visit made on 27 February 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 27th March 2017

Costs application in relation to Appeal Ref: APP/C5690/W/16/3164610 Land rear of 13 Calmont Road, Bromley BR1 4BY

- 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 Sterling Rose Development Limited for a full award of costs against the Council of the London Borough of Lewisham.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for construction of a single storey building on the land to the rear of 13 Calmont Road fronting onto Ambleside to provide a two bedroom bungalow, retention of an existing crossover and 1 car parking space.
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Decision

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

Reasons

2. 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. Unreasonable behaviour described in the PPG can either be procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
 3. The PPG advises that costs cannot be claimed for the period during the determination of the planning application but that parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviours and actions at the time of the planning application can be taken into account in the decision on a costs application.
 4. The Council's decision was not issued within the statutory 8 week period after which the right to appeal against non-determination was exercised. Under adopted procedures the application had to be referred to Committee for a decision, due to the petition in support of the proposal, rather than being decided under officer delegated powers. This then enabled the applicant to address the Committee and resulted in delaying the decision for a period of some 5 weeks. However, this would not amount to the Council behaving unreasonably in relation to the subsequent appeal process.
 5. Unreasonable behaviour of a substantive kind would only have occurred if the Council had failed to adequately substantiate the resolution to refuse planning permission. In the appeal decision the Council's reasons for refusal were found
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to be fully substantiated and to have accorded with development plan policy. That the applicant disagrees with the decision forms no grounds for an award of costs on the basis of unreasonable behaviour of a substantive nature.

Conclusion

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

Jonathan Price

INSPECTOR