
Costs Decisions

Site visit made on 13 June 2017

by David Walker MA MRTPI

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

Decision date: 18th July 2017

Costs application A

in relation to Appeal Ref: APP/G5180/W/17/3171742

51 High Street, Penge, London SE20 7HW

- 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 Mayur Vashee 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 change of use from shop (Class A1) to residential unit (Class C3) with some internal alterations and demolition.
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Costs application B

in relation to Appeal Ref: APP/G5180/W/17/3171742

51 High Street, Penge, London SE20 7HW

- 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 the Council of the London Borough of Bromley for a partial award of costs against Mr Mayur Vashee.
 - The appeal was against the refusal of planning permission for change of use from shop (Class A1) to residential unit (Class C3) with some internal alterations and demolition.
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Decisions

1. Both applications for an award of costs are refused.

Reasons

2. Irrespective of the outcome of the appeal, costs may only be awarded against any party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

Costs application A

3. The claim is brought on the grounds that the Council failed to cooperate during the application process and was obstructive in reaching its decision on the application. Such behaviour could go against the advice of the National Planning Policy Framework for local planning authorities to look for solutions rather than problems.
 4. There is little evidence that the Council made any request for further information of the kind that was provided to the appeal. However, the application was for the prior approval required of a potential permitted development. In these cases the merits of the development are rarely for consideration as the principle is established within the right. The Council was also required to make a determination within 56 days.
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5. I note that the permitted development right was also brought in after the publication of the Framework's advice. There is nothing therefore to indicate that the Council should have behaved differently in its handling of the prior approval application, or was obliged to request further information.
6. It was the applicant's responsibility to provide sufficient information to evidence the proposed permitted development, as stated at question 4 of the application form.
7. I find the Council did not behave unreasonably and no award of costs is justified.

Costs application B

8. It is regretful that the Council had to deal with new substantive matters relating to the suitability of the proposal during the appeal. Such information should have been provided at the time of the application.
9. However, the Planning Practice Guidance specifically states that unreasonable behaviour only arises if new information is provided at appeal that was previously requested, but not provided, during the application. There is no evidence of any request having been made. The appellant did not behave unreasonably in providing the additional material to the appeal.
10. The appellant's statement surrounding the circumstances of the case officer's site visit appears to be untrue. This has had little bearing on the Council's determination of the application and its handling of the subsequent appeal to give rise to the need for significant work.
11. No unreasonable behaviour leading to unnecessary or wasted expense has been demonstrated and a partial award of costs is not warranted.

David Walker

INSPECTOR