
Costs Decision

Site visit made on 1 November 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 16th November 2017

Costs application in relation to Appeal Ref: APP/G5180/D/17/3180075 13 Riverside Close, Main Road, Orpington BR5 3HJ

- 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 Mrs Tina Priestman 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 a detached timber outbuilding.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, 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 expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant submits that the Council Committee acted unreasonably by rejecting the Case Officer's recommendation and this resulted in unnecessary, wasted costs in the need to pursue an appeal in order to obtain permission which should have been granted.
5. While a Council is not duty bound to follow the advice of its professional officers, it must clearly demonstrate on planning grounds that it had reasonable grounds for taking a contrary view.
6. Despite the Council reaching a different conclusion to that recommended by its officers, the consideration of planning applications and appeals involve matters of judgement which at times are finely balanced. The effect of a proposed development on the character and appearance of an area is a more subjective matter, often determined by an exercise of judgement in the particular circumstances of the case.
7. The appeal was determined via the Householders Appeals Service and therefore the process does not enable the Council to substantiate their reason for refusal

through an appeal statement and this cannot therefore be regarded as unreasonable behaviour. That aside, the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would be in conflict. Although I have reached a different view to that of the Council, I consider that the Council's reason for refusal was sufficiently reasoned.

8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is therefore not justified.

Caroline Jones

INSPECTOR