
Costs Decision

Site visit made on 15 November 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 23 November 2017

Costs application in relation to Appeal Ref: APP/G5180/W/17/3179434 24 Downs Hill, Beckenham BR3 5HB

- 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 and Mrs Bloomer for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of the Council to grant planning permission for the demolition of the host dwelling and erection of a new detached house.
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Decision

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

Reasons

2. The appellant submits that the Council has acted unreasonably in that it unnecessarily delayed the determination of the application; it failed to consider the application properly, has gone against the advice of its professional officers without good reason and failed to fully substantiate the refusal on the grounds identified in the reason for refusal. The appellant contends that the proposal complies with the development plan, national policy and other material considerations and should have been permitted. Consequently, this has caused the appellant unnecessary expense in preparing the documentation for the appeal, among other items.
3. 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.
4. The PPG makes it quite 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 or makes vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis.
5. Although the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate on material planning grounds why a proposed development is unacceptable and must provide clear evidence to substantiate that reasoning.
6. In this particular case, following the request of a Councillor the case was determined by the Council's Plans Sub-Committee rather than under delegated powers. I have noted that the case was under 'Section 2' of the agenda of that meeting, being an application meriting special consideration. In the

circumstances where there were local and other objections to the proposal on a number of material planning grounds I do not consider it at all unreasonable that the application in such a sensitive location with a range of constraints and balanced issues was determined outside the Council's delegated procedures. Consequently, I do not consider that the delay in determining the application through the committee channels constitutes unreasonable behaviour by the Council.

7. In the context of the development plan and the proposal the Council was entitled to exercise its own judgement and to conclude as it did. Indeed, given the main issues for consideration in this case I agree that the Council's decision is a matter of judgement as is often the case where design and living conditions are key considerations. The Council Members were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. It appears to me that the Committee came to a swift decision to refuse the application for reasons set out in the reason for refusal. Although the appellant contends that a number of factors led to a wrongful refusal and that there was little constructive debate or objective analysis of the material considerations with no input from Officers I do not have any evidence that a vexatious, over hasty or wrongful decision was reached.
8. The reason for refusal is quite clearly articulated and identifies the Committee's concerns, their views on the resultant failure of the scheme to preserve or enhance the character and appearance of the Conservation Area and the amenities enjoyed by the occupants of neighbouring properties. Furthermore, it is clear to me that the decision was based on relevant policies within the development plan and the National Planning Policy Framework.
9. It will be seen from my decision that I do not agree with the Council Members and there were insufficient grounds to refuse permission relating to whether the proposal preserves or enhances the character or appearance of the Conservation Area and the effect on the living conditions of the occupants of an adjoining residential property. However, I do not consider that the decision is clear cut, but rather a case where a balanced conclusion has had to be made based on the particular circumstances of the site, the proposal and the analysis and application of the development plan and other material planning considerations. Through the appeal process the Council has clearly made its case with reference to these matters. Therefore, in my opinion the Council's decision has been reasonably substantiated.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Alastair Phillips

INSPECTOR