



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: 23rd November 2017

Costs application in relation to Appeal Ref: APP/G5180/W/17/3179034 1 Walnuts Road, Orpington BR6 0RG

- 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 Donald Doyle 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 two storey bedroom end of terrace house on land adjacent to 1 Walnuts Road with associated car parking to rear, and first floor rear extension to 1 Walnuts Road.
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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 applicant submits that the Council acted unreasonably in refusing the application for the same refusal grounds when the proposal was modest in size and reduced considerably since the last application and appeal. As there is a huge demand for such housing and the proposal makes good use of land permission should have been granted. This has resulted in unnecessary costs to the applicant in the need to pursue a second appeal.
4. 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.
5. The substantive issue in the appeal related to the effect of the proposed development on the character and appearance of the area. Such considerations involve matters of judgement which at times can be finely balanced. The reason for refusal set out in the decision notice was complete, precise, specific and relevant to the application. It clearly stated the policies of the Bromley Unitary Development Plan (2006) that the Council found the proposal to conflict with. The reason for refusal was adequately substantiated by the Council in its officer report and appeal statement, which explained its analysis and reasoning, acknowledging the amendments made to the scheme.

6. It can be seen from my decision that I agree with the Council's decision. Furthermore, I considered that the objections raised by the Inspector in the previous appeal decision had not been overcome in the scheme before me.
7. The PPG 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.
8. I am satisfied that the Council was not unreasonable in its refusal to grant planning permission and that it substantiated its case at the appeal.
9. 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