
Costs Decision

Site visit made on 15 January 2020

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Costs application in relation to Appeal Ref: APP/G5180/W/19/3240716 Mulberries, Mavelstone Road, Bromley BR1 2PD

- 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 James Burrell 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 the demolition of existing dwelling and erection of a 2 storey detached 4 bedroom dwelling and new vehicle access onto Mavelstone Road.
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Decision

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

Reasons

2. The 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to issues arising from the merits of the appeal).
3. The applicant is of the view that the Council has not presented full and detailed evidence to support their case. However, the Council statement provides their assessment of the characteristics of the site and the wider area, the size and proportions of the proposal and their view on the extent to which they considered the scheme would assimilate into the surroundings. It is apparent that the assessment was based on judgements made by the Council on site and with reference to information supplied by the applicant as part of the planning application and with reference to policy requirements which include the space standards in Policy 08 of the London Borough of Bromley Local Plan. Given the proximity of the site to the Mavelstone Road Conservation Area it was appropriate that the impact of the development on the setting of the Conservation Area formed part of the assessment.
4. The Decision Notice of the Council provided reasoning for the refusal of the planning application and reference was made to relevant development plan policies to substantiate their decision. They therefore explained why they thought the decision was justified. Whilst amendments were made to the scheme between the first and second application, it was open to the Council to

use the same reasons for refusal if it was of the view that the amendments did not mitigate or overcome the concerns raised in the original proposal.

5. Whilst the Council's case officer recommended approval of the planning application, they were not the ultimate decision maker as recommendations are not binding upon the Council until the point at which a formal decision is issued. It does not necessarily follow that a Council officers recommendation would be the ultimate decision of the Council. As such, there should not have been any expectation that planning permission would be granted. This is particularly the case given the main issue relates to the consideration of the impact of the scheme on the character and appearance of the area which involves a level of subjective assessment.
6. I acknowledge the reasoning of the applicant to progress a third planning application whilst awaiting the outcome of the submitted appeal. However, it was open to the applicant to await the outcome prior to incurring the costs associated with another planning application.

Conclusion

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

K Ford

INSPECTOR