



---

## Costs Decision

Inquiry Held on 21 January 2020.

No site visit.

**by Stephen Brown MA(Cantab) DipArch RIBA**

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

**Decision date: 14 April 2020**

---

### **Costs application in relation to Appeal Ref: APP/G5180/X/18/3200876 Bronze Works, Kangley Bridge Road, Lower Sydenham, London SE26 5AY**

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 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 full award of costs against Nicholas and Dominic Hill.
  - The inquiry was in connection with an appeal against the refusal of a certificate of lawfulness for the use of the building as 8 no. flats (Class C3) pursuant to grant of prior approval under reference 13/13/03598/RESPA.
- 

### **Decision**

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

### **The submissions for the Council**

2. The previous Inspector's decision was robust and well-reasoned. If it is found on re-determination that the application of principles in the *Gravesham*<sup>1</sup> and *Impey*<sup>2</sup> cases was sound, then it was unreasonable for the appellants to bring the case back for consideration. An award for the full costs of the Inquiry is sought in the event that this appeal is dismissed.

### **The response for the appellants**

3. This application is unfounded and misconceived. It is well-established that in appeals brought under the provisions of the Town and Country Planning Act 1990 costs do not follow the event, and that unreasonable behaviour must be demonstrated. The previous decision was quashed by consent, and it can in no way be unreasonable for the appellants to bring the case back for re-determination.
4. The case itself is complex. Even if the appellants' submissions are found wanting that cannot be taken as unreasonable, particularly in the light of the Secretary of State's stance in submitting to judgement. The application should be dismissed.

### **Reasons**

5. I have determined this application in the context of the government's Planning Practice Guidance. This includes the advice that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has

---

<sup>1</sup> *Gravesham Borough Council v SSE and Another* [1984] P&CR 142.

<sup>2</sup> *Impey v SSE & Lake District Special Planning Board* [1984] 47 P&CR 157.

directly caused another party to incur unnecessary or wasted expense in the appeal process.

6. This Inquiry was the result of the earlier appeal decision being quashed, following submission to judgement by the Secretary of State on an application made to the High Court under s.288 of the Act. Given that there may have been errors on matters of law in the previous decision, it cannot be unreasonable for the appellants to continue with their appeal. Indeed, it would have been very surprising had they not done so.
7. Even had I found for the Council and dismissed the appeal, that would not have rendered the appellants' behaviour unreasonable.
8. I do not consider the appellants' have behaved unreasonably in continuing with their appeal, or that they have caused the Council to incur unnecessary or wasted expense in defending their case at Inquiry.

### **Conclusions**

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

*Stephen Brown*

INSPECTOR