
Costs Decision

Site visit made on 10 March 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2020

Costs application in relation to Appeal Ref: APP/G5180/W/19/3242679 6 Moorfield Road, Orpington BR6 0HQ

- 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 KWS Planning 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 change of use from A2 (professional services) to C3 (residential) to create 1 two bedroom flat and elevational changes.
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Decision

1. The application for an award of costs against the Council of the London Borough of Bromley 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.
3. The claim for costs is on the basis that the Council did not take into account the Council's lack of 5-year housing land supply and the consequential engagement of Paragraph 11d of the National Planning Policy Framework in making their decision on the appeal application.
4. The Council's Officer's Report did not take into account the lack of housing supply and did not assess the proposal against the 'tilted balance' of Paragraph 11d. However, I have found in my decision that the adverse effects of granting permission would significantly and demonstrably outweigh the benefits of granting permission. Furthermore, the Council assessed the development against the development plan and found that it did not comply. I have found the same. For these reasons, the development is not one that should have been clearly permitted.
5. The Applicant also contends that the Council did take the lack of 5-year housing land supply into consideration in their assessment of a different recent application, which was permitted, and that the Council's decision making on similar cases has therefore been inconsistent. The alternative case highlighted by the Applicant is for a different proposal of different character and it is therefore acceptable for the Council to assess the different applications

differently. Although the alternative case confirms that consideration of the 'tilted balance' of Paragraph 11d can, in some circumstances, lead to an alternative decision being made, that is not the case in relation to the subject appeal.

6. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

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

O S Woodward

INSPECTOR