



Costs Decision

Site visit made on 9 March 2020 by Hilary Senior BA (Hons) MCD MRTPI

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 24 April 2020

Costs application in relation to Appeal Ref: APP/G5180/D/19/3243483 12 Murray Avenue, Bromley, BR1 3DQ

- 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 Mrs Su-O Hou 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 internal conversion of an outbuilding at the rear of a garden from a garage to an entertainment room. Outbuilding is incidental to the main dwelling house. Work done included floor/wall/ceiling insulation, floor laying, wall painting, installation of kitchen cupboard set which includes a washing basin but does not include any heating elements. Addition of a bathroom included works on the installation of a shower enclosure and relocation of a pre-existing toilet. Electrical wiring is done on the existing system. Sewage and water are connected to the main building's sewage system. No structural change, no change of access and no change to the facade has been done to the dwelling."
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Decision

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

Appeal Procedure

2. An Appeal Planning Officer has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

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. Costs may be awarded to any party regardless of the outcome of the appeal.
4. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes substantive matters such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
5. The application for costs centres on the appellant's concern that the Council acted unreasonably in reaching its decision on the planning application through unreasonably refusing the application given that the possible future separation

- of the unit from the dwelling would need planning permission and could in any event be controlled by planning permission.
6. The Council, however, considers that the application is fully assessed against relevant planning policies. The reason for refusal is clear. Moreover, the Council did consider whether a suitable condition would address concerns regarding the undesirability of the creation of a separate unit and thereby make the development acceptable.
 7. The concerns of the Council about the proposal are set out in the officer report and the Council clearly assessed the proposal against policies in the recently adopted development plan, the London Borough of Bromley Local Plan (2019). Whilst my conclusion on the substantive issue differs from that of the Council, I am unconvinced that the Council acted unreasonably in terms of determining the application. A clear conclusion was drawn against the development plan policies outlined in the decision notice.
 8. In addition the officer report indicates that the Council did consider whether the use of a condition to limit the occupation of the space to family members, would address concerns relating to potential for severance and its subsequent potential impact on the character and appearance of the area and whether such a condition would be enforceable – one of the tests for conditions as set out in the National Planning Policy Framework. Again, I have drawn a different conclusion on this issue, but I am satisfied that the matter was appropriately considered by the Council.
 9. Consequently, the matter was one of a fundamental disagreement between the parties which could have only been resolved by way of an appeal. As such unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs is not justified.
 10. For this reason and taking into account all other matters raised, I recommend that the application for costs is refused.

Hilary Senior

APPEALS PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the application for an award of costs is refused.

Susan Ashworth

INSPECTOR