



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: 19th May 2020

Costs application in relation to Appeal Ref: APP/G5180/D/20/3245810 75 Lynwood Grove, Orpington, BR6 0BQ

- 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 & Mrs Jinesh and Meera Patel 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 Demolition of existing side garage and extension, and rear extension. Two storey front/side extension and part two storey/single storey rear extension without complying with a condition attached to planning permission Ref DC/18/04731/FULL6, dated 13 March 2019.
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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 or fails to provide evidence to substantiate the reasons for refusal.
5. The application for costs centres on the appellant's concern that the Council acted unreasonably in reaching its decision on the planning application on the basis that it prevented development which should clearly have been permitted, not determined similar cases in a consistent manner and continued to uphold the imposition of the condition which does not comply with the National Planning Policy Framework in terms of planning conditions and obligations.

6. The appellant has brought to my attention previously approved applications in the vicinity of the site. Whilst I note that in a number of instances, the Council did not remove permitted development rights, the full details of the proposals are not before this appeal and I cannot therefore be sure that the proposals or site circumstances are the same as those before me.
7. Although the Council's Planning Officer recommended the application for approval, the Planning Committee are entitled to reach their own conclusion on a development proposal. In this case the minutes of the meeting show that a detailed discussion was held which resulted in sufficiently justified reason for refusal in the Council's decision notice.
8. The Council had specific concerns with regard to the effect of removing the condition on the character and appearance of the area and on the living conditions of neighbouring occupiers. These are matters of planning judgement, and although as is clear from my decision I disagree with their position, from the information before me I do not therefore find that it was unreasonable for the Council to refuse the application.
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 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