
Costs Decision

Site visit made on 30 June 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2020

Costs application in relation to Appeal Ref: APP/G5180/W/20/3245169 2 Woodlands Way, Petts Wood, Orpington BR5 1ND

- 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 Syncardia Homes 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 replacement of the existing dwelling with two detached dwellings with associated access, parking and landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's reason for the costs application is that councillors had total disregard for the professional advice offered to them by their officers, which was in favour of the scheme, and made their decision without providing supporting evidence to justify the reasons for refusal. Planning Practice Guidance indicates that one type of behaviour that may give rise to a substantive award of costs against a local planning authority is if it fails to produce evidence to substantiate each reason for refusal on appeal.
4. The Council notes that councillors are not bound to accept the recommendation of officers. In this case, councillors had a detailed committee report before them and knowledge of the site, in part gained from a history of applications which had been refused and dismissed on appeal. The reasons for refusal were specific, clearly defined and based on Local Plan policies, including those relating to the Petts Wood Area of Special Residential Character.
5. I have noted the recommendation of the Council's officers. However, in this case the decision was a matter of judgement that turned on the effect of the proposed development on the character and appearance of the Petts Wood Area of Special Residential Character. The councillors were entitled not to follow the professional advice of their officers so long as a reasoned case could be made for taking a different view.

6. I am satisfied that the Council did substantiate its case for taking a different view to the officers' recommendation. The reasons for refusal are concise and set out the matters in dispute. The appeal statement is comprehensive and assesses the effect of the proposal on the area in an objective manner. As is demonstrated by the history of planning appeals on the site and the considerable amount of third party interest, there are differing opinions as to whether development upon it is acceptable or not. While I have found in favour of the appellant in the matter of the planning appeal, I do not consider it was unreasonable for councillors to have reached a different view.
7. The appellant criticises councillors for not explicitly debating the issue of housing land supply at their meeting. It is not unusual for a debate to focus on particular issues of interest, but that does not mean that other issues have been ignored. I note that the issue of housing land supply was covered in some detail in the committee report and again in the Council's appeal statement. Having regard to that coverage, I consider this issue was adequately addressed by the Council.
8. Both parties have directed my attention to costs decisions relating to appeals on other sites in the Petts Wood area. As the forms of development and circumstances of each case differ from this one, I find them of little relevance to the issue in hand.
9. Based on the evidence before me I find that the Council has not acted unreasonably and did provide clear and justified reasons as to why it reached its decision on the planning application.

Conclusion

10. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR