
Costs Decision

Site visit made on 11 November 2020

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020.

Costs application in relation to APP/G5180/W/20/3252523 Yonder Farm, Orange Court Lane, Downe, Orpington BR6 7JD

- 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 Miss Sarah Williams for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal to approve details of details pursuant to condition No 5 of planning permission Ref DC/17/05809/FULL1, granted on 3 October 2019.
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Decision

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

Reasons

2. The Planning Practice Guidance (The Guidance) 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.
3. The applicant considers that the Council's assessment of the proposal was flawed in the light of the site's protracted planning history and that its decision to withhold the approval of details of the log cabin was without merit. However, the submitted details showed a log cabin that was larger than both the redundant equine building to be replaced and the building illustrated on plans that were considered as part of the previous appeal. On that basis, it is not unreasonable to conclude that a reduction in openness would result given that it would involve additional built form.
4. In making that assessment, the Officer's report draws from the previous appeal and quotes paragraph 12 of that decision, which deals with the consequences for openness if a caravan were to come forward on the site. The same paragraph of the earlier appeal decision is then quoted no fewer than 3 times in the Council's written statement. This particular consideration was clearly also taken into account.
5. The applicant is critical of the Council in failing to provide positive advice on what it would find acceptable. The applicant also says that it felt as if "they were being pushed to make it smaller and smaller and even then it might still be unacceptable". This comment appears to indicate there was a difference of opinion based on the information provided rather than one party adopting an unreasonable stance.

6. The application was with the Council for roughly 5 months, which is a lengthy time period given the modest nature of the application. During that time, the applicant says that she was living in a flat on site that needed to be vacated and converted to non-residential use. However, the Guidance states that costs can only be awarded in relation to the appeal stage. While no particular reason is given by the Council to explain the delay, part of the application period did coincide with national restrictions on working practices and travel to address the pandemic, which may have contributed.
7. My findings in relation to the effect of the proposal on the Green Belt differ to those of the Council. This arose because I reached a different conclusion from the submitted evidence rather than because of any inadequacy in the content of the Council's case. That I supported the appeal and approved the details of the log cabin does not mean that the Council failed to show why in its view the details should not have been approved or that it failed to substantiate its case.

Conclusion

8. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. A full award of costs is not, therefore, justified.

Gary Deane

INSPECTOR