



Costs Decision

Site visit made on 27 November 2020

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020.

Costs application in relation to Appeal Ref: APP/G5180/W/20/3251928 Burnhill House, 50 Burnhill Road, Beckenham BR3 3LA

- 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 TCA Beckenham Residential Ltd for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was made against the refusal to grant approval required under a development order for the change of use of offices (Class B1a) to form 22 apartments.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has behaved unreasonably, and where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG makes it clear that planning authorities are at risk of an award of costs against them if they prevent or delay development which should clearly be permitted, having regard to the development plan, national policy and any other material considerations. As examples of behaviour that may give rise to a substantive award of costs against a local planning authority, the PPG also lists vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, and refusing planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. The applicants point out that, in the 2019 appeal decision on this site, the Inspector gave significant weight to an earlier approval for 14 units on this site, and could find nothing compelling within the evidence before him that would have tipped the balance towards a requirement for on-site parking provision. He went on to dismiss the appeal because of deficiencies in the submitted Unilateral Planning Obligation (UPO). The applicants allege that, because they

have now corrected the issues with the UPO, the Council should have granted prior approval.

5. However, from the evidence before me, it is not clear that a signed and dated UPO was submitted prior to the Council refusing the application. The only version I have seen that appears to have been submitted to the Council prior to its decision is neither signed nor dated. In addition, the signed UPO that I have taken into account in my decision on the case is dated 8 April 2020, over a month after the Council's refusal of the application. The Council was therefore in the same position as the 2019 Inspector when it made its decision, of not having before it an appropriate UPO. It did not therefore refuse an application that could have been permitted by the imposition of conditions (or in this case, a signed and dated UPO).
6. The Council put together a comprehensive case, explaining its highways and transport objections to the proposal, and included relevant evidence. I concluded that these objections were not sufficient for me to dismiss the appeal. However, I do not consider that this evidence constituted "*vague, generalised or inaccurate assertions about a proposal's impact*".
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Michael J Muston

INSPECTOR