



Costs Decision

Site visit made on 21 October 2021

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2021

Costs application in relation to Appeal Ref: APP/G5180/D/21/3277480 36 Manor Way, Petts Wood, Orpington BR5 1NW

- 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 T Randall 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 Loft conversion with partial hip to half gable, rear dormer and two front roof lights.
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Decision

1. The application for an award of costs is allowed, in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other materials considerations or makes vague, generalised or inaccurate assertions about a proposals' impact which are unsupported by any objective analysis.
4. The basis of the appellant's claim for costs is that the Council failed to give appropriate weight to other material considerations in its decision to refuse planning permission on the grounds that the development would disrupt the symmetry of the semi-detached pair of dwellings and would harm the rhythm and patter on the houses in the Area of Special Residential Character, and therefore would be contrary to Policies 6, 37 and 44 of the Bromley Local Plan.
5. The appellant states that the appeal complies with the development plan and the Council failed to acknowledge recent appeal decisions for similar developments, similar developments in the locality and the roof works and loft conversion at no. 38, the adjoining dwelling. Whilst I acknowledge that works were underway at no. 38 at the time of my site visit, I am not aware whether or not these were occurring at the time of the Council's decision, and the Council expressly states in the Delegated Report that no. 38 has not be subject to a roof extension. Nonetheless, I was able to review the information on similar developments provided in the appeal documents, as well as see the

variation in designs for roof extensions in the local area. I concluded that the proposals would not be dominant, nor would disrupt the symmetry of the pair of dwellings and would not inherently harm the character and appearance of the ASRC. I reached my decision on the basis of my consideration of the details and merits of the scheme, having regard to all the evidence and representations submitted.

6. The Council has not submitted a rebuttal to the costs application, in particular the decisions for similar development in the area, the variety of roof extensions along Manor Way and the local area, and the current works at the adjacent property, no. 38. Taking into account my findings above, the Council did not sufficiently balance the relevant other material considerations in considering the weight to be attached to the relevant Local Plan Policies. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposal should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that an award of costs is justified.

Conclusion

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that The Council of the London Borough of Bromley shall pay to Mrs T Randall the costs of the appeal proceedings described in the heading of this decision.
9. The appellant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Rebecca Thomas

INSPECTOR