



Costs Decision

Hearing Held on 16 November 2021

Site visit made on 16 November 2021

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Costs application in relation to Appeals Ref: APP/G5180/C/19/3231907 and APP/G5180/C/19/3231908

8 Austin Avenue, Bromley BR2 8AJ

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Bromley for a full award of costs against Mr Leslie Baker and Mrs Janet Baker.
 - The appeal was against an enforcement notice alleging the construction of a link extension between two outbuildings at the rear of the Land and the material change of use of the extended and combined current outbuilding into a self-contained unit of habitable accommodation.
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Decision

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

The submissions by the Council of the London Borough of Bromley

2. The application was made, and responded to, orally at the Hearing.
3. The Local Planning Authority is seeking an award of costs on the basis that the additional evidence before the Hearing could have, and should have, been made previously for consideration by the Inspector who determined these appeals by written representations. The previous decision was quashed due to the change in procedure, however, there have been no significant fundamental changes between the date of that decision and now. If the same conclusions are reached then the Hearing was held for no purpose. Costs since the previous decision are sought as the redetermination could have been avoided.

The response for Mr Leslie Baker and Mrs Janet Baker

4. It is not possible in an appeal of this nature to ascertain the facts without asking the people themselves, which is why a Hearing was sought. It is perfectly acceptable for the redetermination to be pursued as the whole case is before a new Inspector who must engage with the central issue.

Reasons

5. 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.

6. As required, I have considered the case afresh and reviewed all the evidence before me. I decided at the outset that the appeals should be determined by way of a Hearing. I thought it important that the appellants were allowed the opportunity to explain in person how the appeal building was used and occupied. Although I reached the same conclusions as the previous Inspector, I do not consider that the Hearing was held for no purpose. I was able to ask questions to ensure I understood the points being made. The appellants' evidence was fully explored during the Hearing and the Council was able to comment on the matters being considered.
7. It is not unreasonable to challenge an Inspector's decision nor seek redetermination in accordance with the opinion of the Court. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Debbie Moore

Inspector