



Costs Decision

Site visit made on 10 September 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20/12/2021

**Costs application in relation to Appeal Ref: APP/G5180/W/21/3271857
Land and Garages, Gardiner Close, Orpington, Bromley BR5 3HW**

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- 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 Mr Shazad Mahmood - AZ Investments Limited for a full award of costs against London Borough of Bromley.
 - The appeal was against a refusal to grant planning permission for 'Demolition of existing garages and erection of 2 two storey semi-detached 4 bedroom dwellings with associated parking and cycle and refuse stores'.
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Decision

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

Reasons

2. 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. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Other examples set out in the PPG include where an LPA has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The applicant contends that the Council failed to follow the professional advice of its officers and refused the proposals on grounds on which the proposal was either clearly policy compliant or for reasons which are not relevant to the planning process.
4. The Council's Planning Committee was entitled to come to its own view in respect of the matters relating to the character and appearance of the area and neighbouring living conditions. Such issues are subjective and are a matter of planning judgement. I too have concluded that there would be significant harm to neighbouring living conditions.
5. I sympathise with the applicant to some extent with regards to the Council's second reason for refusal which refers to drainage and land ownership matters. The Council has confirmed that its specific concerns relate to the ability of the appellant to provide an inspection chamber for a public sewer connection to the dwellings. As covered in my appeal decision, this is a matter usually dealt with

under the building regulations in consultation with the relevant utility company and landownership is a private legal matter. In any case, even if this reason for refusal not been included, given the Council's other concerns, this would not have meant that an appeal could have been avoided altogether.

6. The applicant took the decision to amend the drawings and to submit these as part of the appeal process. This is not a matter in the control of the Council. The applicant could have submitted the scheme that was before the Council had they wanted the Inspector to assess the proposal purely on that basis.
7. For the reasons set out, I therefore find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR