



Costs Decision

Site visit made on 21 October 2021

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2022.

Costs application in relation to Appeal Ref: APP/G5180/D/21/3273527 11 Kennedy Close, Petts Wood, Orpington BR5 1HP

- 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 M K Zaman 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 conversion of garage to habitable room and erection of single storey side rear extension.
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Decision

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

Reasons

2. The Appellant submits that the Council has acted unreasonably in that the reason for refusal is vague, generalised and inaccurate, and that it is unsupported by objective analysis and that this has meant that the development was unreasonably delayed when assessed against the development plan and other material considerations. The Council has failed to substantiate the planning harms as a result of the overdevelopment and the noise disturbance. Further the Council has gone against the advice of its professional officers without good reason and failed to substantiate the objection on the grounds of harm to highway safety. The refusal of planning permission was unfounded and as a result, the appellant has incurred the unnecessary cost, stress and inconvenience of appealing the decision.
3. 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.
4. 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 proposal's impact which are unsupported by any objective analysis.
5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the highway

officers concluded that the degree of on-site parking provision was acceptable, and the officers concluded that the development accorded with the development plan.

6. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic 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 demonstrate 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 Mr M K Zaman 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