



Costs Decision

Site visit made on 26 October 2021

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 February 2022

Appeal Ref: APP/G5180/D/21/3275775

97 Kingsway, Petts Wood, Orpington BR5 1PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Oliver Murray against the decision of the Council of the London Borough of Bromley.
- The application Ref DC/21/00379/FULL6, dated 21 January 2021, was refused by notice dated 22 April 2021.

The development proposed on the application form is: C3 Residential dwelling - Loft conversion including hip to gable, and front roof lights.

Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. Awards may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. The application for costs cites both procedural and substantive grounds.
4. The appellant attests on procedural grounds the Council suppressed evidence relating to previous appeals and deliberately sought to do this. Whilst the Council do not mention these previous appeals in the officer report, there is nothing to suggest that this was a deliberate omission. I do not consider this was a deliberate omission on the Council's behalf and therefore do not consider the Council have acted unreasonably.
5. In terms of the substantive ground the appellant's reference to case law refers to two previous appeal decisions. These decisions relate to similar appeals in the Petts Wood Area of Special Residential Character (ASRC). However, appeal decisions are not case law, they can, however, be material considerations.
6. I have been provided with these decisions and whilst I do not have the full facts of each case before me it is clear, as set out in my decision, that the

circumstances in those two cases are not directly comparable to the appeal before me, particularly when considering the street scape and the individual site context of each of the cases. Each planning application and appeal has to be considered on its own individual merits, and whilst previous appeal decisions can be material considerations, based on the facts of this case, and that I have found the proposal to harm the character and appearance of the immediate street scape and the wider ASRC, I do not find that the actions of the Council to be unreasonable in this instance.

7. With regard to making vague or inaccurate assertions, I have been provided with the officer's report, which whilst brief, sets out the Council's assessment of the proposal and relates this assessment to relevant planning policies. Consequently, it was clear what the Council was thinking in reaching its decision and the factors that it took into account in doing so. Essentially, the planning judgement was finely balanced. The existing property makes a positive contribution to the area and it was not unreasonable for the Council to find that harm would arise, notwithstanding that some other properties had been altered. The officer report adequately expressed those concerns and I do not find on this matter that the Council acted unreasonably.
8. There is nothing to indicate that the Council suppressed evidence or failed to take into account relevant material considerations. Nor did it make vague or inaccurate assertions about the case.

Conclusion

9. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore unjustified in this case.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis, I agree with the recommendation and shall refuse the application for costs.

Chris Preston

INSPECTOR