



Costs Decision

Site visit made on 8 March 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2022

Costs application in relation to Appeal Ref: APP/G5180/W/21/3277451 Land adjacent to 21 Dalton Close, Orpington BR6 9QY

- 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 WBerkton Limited for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the non-determination of Permission in Principle for the erection of semi-detached property comprising of 2x three bedroom dwellinghouses.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations, or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The application is made on the grounds that the Council behaved unreasonably on substantive and procedural grounds thereby incurring unnecessary expenditure. The applicant sets out that the Council failed to engage in any meaningful way, costing them consultation and delay costs; and that it did not properly assess the proposal in accordance with the development plan and submitted specialist technical reports.
5. The Council has not provided a response to the application for costs.
6. Notwithstanding this, the Council's reasons for refusal, which are set out in their representations, are complete, precise, specific and relevant to the application. The policies of the development plan that the proposal would conflict with are clearly stated. I consider that these reasons were adequately substantiated by the Council. Furthermore, I agree with the Council that the development does not comply with relevant development plan policies.

7. In respect of engaging in meaningful dialogue, I have little evidence before me to support this claim. In saying that, I acknowledge that the appeal was submitted as a result of the Council failing to determine the application within the statutory time period. However, this is not a reason in itself to warrant an award of costs.
8. Whilst I appreciate that the applicant does not agree with the Council's stated view on the application, I am of the view that the Council was not unreasonable in coming to the conclusion set out in its representations and there is no evidence before me to suggest that it has unreasonably prevented or delayed a development that should otherwise have been approved. I therefore cannot agree that the Council has acted unreasonably in this case.

Conclusion

9. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

A Price

INSPECTOR