



Costs Decision

Site visit made on 21 March 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Costs application in relation to Appeal Ref: APP/G5180/W/21/3277623 21 Lancing Road, Orpington BR6 0QS

- 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 Haskins 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 double garage and workshop and erection of two/three storey apartment block comprising 4 x 1 bed flats and 1 x 2 bed flat and alterations to existing access'.
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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 where an LPA has acted contrary to, or not followed, well established case law or persisting in objections to a scheme which an Inspector has previously indicated to be acceptable.
3. I can understand the applicant's frustrations as the planning application which led to this appeal was submitted following the Council's failure to determine a similar planning application which was subject to a separate appeal¹ (the other appeal). However, given that there was an ongoing appeal relating to an identical proposal at the time the application was submitted, the Council was within its rights to decline to determine the planning application.
4. The applicant's case substantively relates to the Council's procedural error in setting out its stance not to determine the application on a decision notice refusing outline planning permission. However, it was the decision notice issued in error which opened up an opportunity to appeal which otherwise would not have existed. Given that the applicant already had an appeal in for an identical proposal, it was an unusual step to make a second appeal. This is particularly so given that it is clear from the applicant's submissions they are aware that it is a matter for the courts if they want to pursue a case for the flawed decision notice to be rescinded.

¹ Appeal Ref. APP/G5180/W/21/3271589

5. Furthermore, the applicant's statement of case and final comments in relation to this appeal had already been submitted prior to the decision on the other appeal being issued. Their case on material planning considerations mainly relies on appended statements and documents that were provided in support of the other appeal. Therefore, even though the Council has not reviewed its case since I allowed the identical development and that in itself is unreasonable, the unreasonable behaviour in this instance has not resulted in unnecessary or wasted expense in the appeal process.
6. 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