
Costs Decision

Site visit made on 31 March 2022

by Rory MacLeod (Hons) BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2022

Costs application in relation to Appeal Ref: APP/G5180/W/21/3280764 1B Copers Cope Road, Beckenham, BR31NB

- 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 Martin Lewis 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 demolition of the existing dwelling and erection of 7no. apartments and associated works.
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Decision

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

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is made on substantive grounds in that the Council behaved unreasonably in refusing permission (1) on character grounds, given the approval of a similar development 55m to the east of the site, (2) on the lack of objective analysis against the impact on a neighbour in respect of outlook, (3) on the incorrect application of planning policies relating to parking and (4) on the lack of a detailed assessment on the tree to the south of the site.
4. I have disagreed with the Council on the effect of the development on the character of the area, but this is a matter of judgement. The Council has set out its reasoning in relation to spatial separation for the approval of the proposal to the east of the site. Circumstances differ at the appeal site. The character of Copers Cope Road varies considerably along its length. The existence of a permission on the shallow site to the east does not provide justification for the proposal on character grounds.
5. In respect to the impact on the neighbour to the east, the Council were in receipt of an objection letter citing the proposal's implications on occupiers given the unusual layout of the building within the plot. The issues were wider than just outlook. It was not unreasonable for the Council to apply a subjective assessment to the issues having considered the applicant's reliance on the 45 degree rule to be inadequate.

6. The Council's delegated report noted the weighting to be given to emerging London Plan policies in relation to adopted local policies and that local circumstances can also be considered when examining parking provision. Residents also objected on the lack of parking provision. It was not unreasonable for the Council to make an assessment on the implications at the application stage on the information then available and to then withdraw its refusal reason in the light of additional information.
7. The proposed building would be significantly closer to the large tree to the south of the site than the current dwelling. Notwithstanding the heavy pruning of the tree in the past, the tree's roots would be likely to spread further than its present canopy. It was not unreasonable for the Council to have included this issue as a refusal reason on the basis of the information available at the application stage and then to withdraw the reason in the light of arboricultural information at the appeal stage.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Rory MacLeod

INSPECTOR