



Costs Decision

Site visit made on 21 September 2022

by Peter White BA(Hons) MA DipTP MRTPI

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

Decision date: 20/10/2022

Costs application in relation to Appeal Ref: APP/G5180/3286967 Woodlands, Holwood Park Avenue, Orpington, Bromley BR6 8NQ

- 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 J Ruprai 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 planning permission for proposed demolition of existing dwelling and the erection of a replacement 7 bedroom dwelling with accommodation over 2 floors and accommodation in the roofspace together with basement to substitute granted scheme DC/16/03654/FULL1 without complying with conditions attached to planning permission Ref DC/19/02269/FULL1, dated 23/08/2019.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant's case, on substantive grounds, is that the Council have offered vague, generalised or inaccurate assertions, unsupported by objective analysis, have not determined cases in a similar manner, and continue to impose conditions which do not meet the tests in the National Planning Policy Framework (the Framework). As a result, it is alleged that the applicant has incurred delay and cost in preparing and lodging the appeal.
4. At its heart, the Council's case is that the character of the Keston Park Conservation Area (KPCA) lies in its large dwellings in a spacious and heavily landscaped setting. And that the scale of the replacement dwelling on the appeal site, and the extent of development within its curtilage, is significant. Therefore, that any further development could harm the spaciousness, and therefore the character and appearance, of the KPCA, and the amenities of neighbouring occupiers.
5. Although in my appeal decision I found in favour of the appellant, it was not unreasonable for the Council to consider there could be harm to the character and appearance of the KPCA arising from the potentially large outbuildings that could be erected under Town and Country Planning (General Permitted

Development) (England) Order 2015 (GDPO) Schedule 2 Part 1 Class E. From the information before me, it was also not unreasonable for the Council to have taken different approaches in relation to different developments on the estate, as each case should be considered in relation to its own particular circumstances.

6. The Council's case for harm to residential amenity is far less clear, and almost entirely absent. This is unreasonable behaviour. However, neither has the applicant addressed this matter significantly in their appeal submissions, and unnecessary or wasted expense has therefore not occurred.

Conclusion

7. For the reasons set out above I conclude that, whilst the Council exhibited unreasonable behaviour in some respects in terms of the PPG, I find that wasted or unnecessary expense has not been incurred by the appellant in the appeal process. I therefore conclude that the application for an award of costs should be refused.

Peter White

INSPECTOR