



Costs Decision

Site visit made on 10 January 2023

by Robert Naylor Bsc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Costs application in relation to Appeal Ref: APP/G5180/D/22/3294003 Kinross, North End Lane, Downe, Orpington BR6 7HQ

- 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 W Harris for a full award of costs against the Council for the London Borough of Bromley.
 - The appeal was against the refusal of an application for planning permission for the demolition of existing conservatory and erection of single storey ground floor extension to the side, elevational alterations to provide roof over extended bungalow with habitable accommodation in the roof space and rooflights to sides/front without complying with conditions 2 and 4 attached to planning permission Ref 19/03568/FULL6, dated 12 March 2020.
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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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.
3. The applicant submits that the Council has acted unreasonably in that it has failed to substantiate its reasons for refusal and made vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. I have noted the recommendation of the Council's officers was to approve the scheme, which the Planning Committee chose not to accept. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. As such, the refusal of planning permission by the Planning Committee at the application stage does not necessarily represent unreasonable behaviour in itself, providing a case can be made for the contrary view.
5. In this case, the Council considered the development in respect of the surrounding area and the issue of overlooking raised by the adjoining neighbour and was reasoned in its analysis. The minutes of the meeting record the concerns of the Planning Committee and the reason for refusal is clear and

made with reference to relevant policies in the development plan. Furthermore, interested parties provide further information for consideration. I am satisfied therefore, there is sufficient information before me to enable me to understand the case made by the Council.

6. Whilst I have reached a different view on these matters, this matter is one of judgement for the decision maker. It follows that I am satisfied that the Council has, advanced a case, in the form of the minutes and decision notice, that in its opinion, indicated that the proposal was contrary to the development plan and the National Planning Policy Framework. Therefore, I cannot conclude that the Council had behaved unreasonably in the procedure leading up to the appeal.

Costs Order

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

Robert Naylor

INSPECTOR