



Costs Decision

Site visit made on 1 June 2023

by Robert Naylor Bsc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Costs application in relation to Appeal Ref: APP/D5120/W/22/3310309

1 Viewfield Road, Bexley DA5 3EE

- 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 Joginder Chana for a full award of costs against the Council for the London Borough of Bexley.
 - The appeal was against the refusal of an application for planning permission for the erection of a 2-bedroom, 2-storey detached house.
-

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. Paragraph 049¹ of the PPG states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted and refusing planning permission on a planning ground capable of being dealt with by conditions.
4. The applicant submits that the Council has acted unreasonably in that it has failed to substantiate its reason for refusal and made vague, generalised, or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
5. In this case, the Council refused the appeal scheme for a single reason, which related to the harm from the proposed development on the living conditions of nearby occupiers with specific regard to enclosure, outlook and light. I find in reaching a decision the Council did consider the effects of the development in respect of the harm to the living conditions of the occupiers of both Nos 1 and 2 Viewfield Road.
6. This reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. The Council have also clearly referenced the relevant policies of the London Borough of Bexley Unitary Development Plan (2004) which formed the Council's Development Plan at the time of its decision. Since the determination of the application the Council

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

adopted the Bexley Local Plan in April 2023 (BLP), and both parties have provided updated comments to reflect this. The Council have indicated the relevant policies of the BLP which continue to seek to ensure development does not result in unacceptable adverse effects on the amenity of residents of neighbouring properties. As such the reasons have been adequately substantiated by the Council in its Officer Report and demonstrates how the proposal would result in unacceptable harm on the living conditions of nearby residents.

7. It will be seen from the decision in the appeal that I reached a similar conclusion to the Council with regard to the impact of the proposal on Nos 1 and 2. Parties in planning appeals and other planning proceedings normally meet their own expenses. I acknowledge that the applicant has incurred costs, but in this particular case, I am satisfied that the Council did not delay development that should have been permitted having regard to the policies in the development plan, national policy and other material considerations.
8. Consequently, I find no procedural nor substantive grounds for an award of costs. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.

Conclusion

9. For the reasons given above, I conclude that a full award of costs is not justified.

Robert Naylor

INSPECTOR