



Costs Decision

Site visit made on 1 August 2023 by Ifeanyi Chukwujekwu BSc MSc MRTPI MIEMA CEnv

Decision by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Costs application in relation to Appeal Ref: APP/G5180/D/23/3322366 Denby, 14 Pines Road, Bickley, Bromley BR1 2AA

- 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 V Goloshivsky 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 a single storey rear extension.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Appeal Procedure

2. A representative of the Inspector has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that irrespective of the outcome of the appeal, a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour and no wasted expense an award will not be justified.
4. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes procedural matters such as providing information that is shown to be inaccurate or manifestly untrue and substantive matters such as vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. In summary, the applicant asserts that the Council acted unreasonably by going against officer advice to approve the application and that their decision does not stand up to scrutiny on the planning merits of the case. There was very limited objection to the proposal at the application stage and these were not supported by either the planning officer or the heritage officer. The committee, by looking at google maps decided the proposal breached the historic rear building line and it is considered that the Committee acted unreasonably in this matter.

6. No response was received from the Council with regard to the costs application.
7. I have noted the officer recommendation to approve the application. However, this is not the ultimate decision of the Council. The Committee were quite entitled to reach an alternative conclusion against the advice of officers and were within their rights to refuse the application. As such, they have not acted unreasonably by doing so. However, the key issue is whether the Council have provided sufficient evidence to substantiate their reason for refusal.
8. The reason for refusal set out by the Council is based on overdevelopment of the site and an oppressive outlook from the adjacent property, together with its impact on the Conservation Area.
9. The reason for refusal relates to matters of where there will clearly be an aspect of planning judgement. I consider that in reaching its decision on the character and appearance issue the Council took account of the character of the site, its surroundings and the context in which the proposal would be seen even if this was done remotely relying on satellite imagery. Whilst in my decision I found in favour of the applicant on this issue, I find that there is sufficient evidence that the Council considered this matter to the extent that no unreasonable behaviour occurred on this issue.
10. In terms of the living conditions aspect, the Council has produced very little evidence to support their stance and have relied on little more than an assertion that the development has the potential to result in oppressive outlook for occupants of the neighbouring property.
11. In respect of this living conditions matters, I find that the Council have not provided sufficient evidence to substantiate this aspect of their reason for refusal. Furthermore, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposed development should reasonably have been permitted. The refusal of planning permission on this ground therefore constituted unreasonable behaviour contrary to the guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary additional expense of dealing with matter in their appeal submission.

Conclusion and Recommendation

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to living conditions matter and therefore a partial award of costs is justified.

Ifeanyi Chukwujekwu

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and my representative's recommendation, and on that basis, I too concur that the application for an award of costs is partially awarded.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Bromley shall pay to Mr V Goloshivsky, the costs of the appeal proceedings described in the heading of this decision; limited to those costs incurred in contesting the overbearing outlook issue, such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicant is now invited to submit to the Council of the London Borough of Bromley, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Chris Forrett

INSPECTOR