
Costs Decision

Site visit made on 27 September 2023

by Hannah Guest BSc (Hons) MA MRTPI

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

Decision date: 3 November 2023

Costs application in relation to Appeal Ref: APP/G5180/W/23/3317084 4a Blakeney Road, Bromley, Beckenham, BR3 1HA

- 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 the London Borough of Bromley Council for a partial award of costs against Mortlake Investments.
 - The appeal was against the refusal of planning permission for demolition of the existing detached dwelling and the subsequent construction of two x three storey buildings with habitable roof space to accommodate a total of 9 apartments (within a mix of 4 x 1b/2p, 4 x 2b/4p, and 1 X 3b/4p) with associated access, private and communal amenity space, refuse and cycle storage.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council considers the applicant acted unreasonably in submitting Bat Emergence and Re-entry Surveys (bat surveys) at final comments stage of the appeal process, and that as a result it incurred wasted and unnecessary expense and time in defending this aspect of its decision.
4. The Procedural guide: Planning appeals – England advises that new evidence is not normally accepted at the final comments stage of the appeal process. Indeed, having considered the appeal as a whole, I decided not to accept the late evidence as it would prejudice interested parties.
5. The PPG identifies a delay in providing information or other failure to adhere to deadlines as an example of unreasonable behaviour which may result in the award of costs. Nevertheless, as the appropriate season for undertaking the bat surveys falls between May and August, it would have been difficult for the applicant to submit them as part of the initial appeal documents

without the risk of missing the statutory timescale for submitting the appeal. Therefore, while this did not amount to a change in circumstances that justified accepting the late evidence, it is an understandable reason as to why the applicant submitted the bat surveys late. Given this, although it may have been advisable for the applicant to inform the Council of their intention to carry out the surveys, I do not consider the appellant acted in an unreasonable manner.

6. Even though the Council requested me not to accept the bat surveys, in responding to the late submission it commented on the methodology and findings. The Council's comments were minimal and there is no evidence before me that it incurred unnecessary or wasted expense in preparing them. The response was in line with addressing other minor matters that occur during the appeal process.
7. For the reasons set out above, I conclude that it has not been demonstrated that the appellant behaved unreasonably. Neither is there any substantive evidence of the Council incurring any unnecessary or wasted expense in the appeal process. Therefore, an award for costs is not justified.

Hannah Guest

INSPECTOR