
Costs Decision

Site visit made on 13 December 2023

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19.01.2024

Costs application in relation to Appeal Ref: APP/G5180/W/23/3324104 15 Greencourt Road, Petts Wood, Orpington BR5 1QL

- 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 Roberto Botero 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 the installation of solar panels on the south facing roof.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The appellant submits that the Council has acted unreasonably due to a lack of co-operation throughout the planning application process, and prevented the development when it should have been permitted.
4. Whilst I can understand the applicant's frustration at the perceived lack of communication from the Council during the course of the application, I have seen no sufficiently compelling evidence of unreasonable behaviour. The delegated report sets out an appropriate analysis of the indicated harm in this respect, and how it would conflict with relevant adopted planning policies. Moreover, the reason for the refusal in the decision notice is complete, specific and relevant to the application. It clearly states the policies of the Development Plan with which the proposal would be in conflict.
5. Therefore I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme at that time. The Authority had reasonable concerns about the impact of the proposed development which warranted its decision.
6. This notwithstanding, the appellant acknowledges in his costs claim that, "Subsequently, it was intimated by the case officer, during the course of determining the application to the Agent for the planning application that permission was not required and it was suggested that Mr Brown and Mr Botero withdraw the application and submit an Application for a Lawful Development Certificate for a Proposed Use or Development for the solar panels." As such it would seem that the Authority did give an indication of how to proceed.

7. It was open for the appellant to submit a lawful development certificate (LDC); this has since been granted by the Council for the same array of solar panels as that contained in the original application. In his claim for costs, the appellant states, "If however the London Borough of Bromley had discussed whether the solar panels were permitted development or not this would have resulted in no need for an appeal if it was determined that the proposal is permitted development."
8. However, it appears that the case officer had discussed the matter. The appellant submitted the LDC and this confirms that the proposal is permitted development. All of which to my mind is normal planning practice.
9. Consequently I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Hall

INSPECTOR