
Costs Decision

Site visit made on 13 February 2024

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2024

**Costs application in relation to Appeal Ref: APP/D5120/W/22/3294901
Site of former garages and land adjacent to 17 Betsham Road, Erith, Kent
DA8 2BG**

- 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 Pard Thandi for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the refusal to develop land without complying with conditions, subject to which a previous planning permission was granted.
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Decision

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

The submissions for the applicant

2. The applicant submits that the Council unfairly refused his application to vary the approved plans, which in his view complied with Council policies. This led to wasted expense on submitting an appeal.

The response by the Council

3. The Council were sent a copy of the costs application on 10 August 2022. A response was due by 18 August 2022 but none was received. A reminder email was sent to the Council on 10 January 2024 extending the response period to 18 January 2024 but to date there has been no response.

Reasons

4. The Planning Practice Guidance (the Guidance) advises that costs may only 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. The Guidance also advises that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This could be by failing to produce evidence to substantiate reasons for refusal.
5. That is not the case here. The Council provided robust reasons for refusal that withstood scrutiny under appeal, as I set out in my decision. The Guidance states clearly at paragraph 50 where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.

6. I have noted the Council's failure to respond to the costs application but in this case the applicant's case is not strengthened by the lack of evidence to counter it.¹

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

D Fleming

INSPECTOR

¹ The Guidance, paragraph 38