



Costs Decision

Site visit made on 17 April 2024

by M. P. Howell BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2024

Costs application in relation to Appeal Ref: APP/G5180/X/22/3298744 8 Austin Avenue, Bromley, BR2 8AJ

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Les Baker for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of a certificate of lawful use for the proposed use of existing outbuilding as a granny annex.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The applicant claims that the Council should have conceded its stance on the accompanying appeal and confirmed to the Planning Inspectorate that it did not resist the appeal. However, as they resisted the appeal they have behaved unreasonably, and a substantive award of costs should be awarded. The applicant has highlighted several of the non-exhaustive reasons of unreasonable behaviour set out in the PPG, including,
 - Failure to produce evidence to substantiate the reason for refusal;
 - Making vague, generalised or inaccurate assertions unsupported by any objective analysis;
 - Not following well established case law;
 - Objecting to a proposal which they presented as an acceptable solution; and
 - Not reviewing their case promptly following the lodging of an appeal.
4. I am satisfied that the Council substantiated their case in the Officer Report and the Statement of Case provided as submissions as part of the accompanying appeal. They also produced evidence, in the form of previous Inspector's decisions, where the lawfulness of a proposed development was considered against the provisions of section 191(2) of the Town and Country Planning Act (1990 Act).
5. If the Council had found the existing building to be compliant with 191(2), then they would have had to consider the lawfulness of the proposed use of the

building as a granny annex. However, as it contravenes 191(2), it was not necessary for the Council to consider the case law established as part of *Uttlesford*¹, as it would not alter the decision.

6. Furthermore, the Council provided all of the necessary statements in a timely manner following the lodge of the appeal. I was not involved in the previous appeal hearing, and so I am not aware of the discussions that took place, or the possible solutions put forward by the Council. As such, I have no substantive information to show that the Council delayed the appeal process or put forward the proposed LDC as an acceptable solution.
7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M. P. Howell

INSPECTOR

¹ Uttlesford DC v SOS and White [1991] 2 PLR 76