



Costs Decision

Site visit made on 17 April 2024

by N Kempton BA(Hons) PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Costs application in relation to APP/G5180/W/23/3330554

1 St Augustine's Avenue, Bromley BR2 8AG

- 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 Ms B Keeper and Ms D Sullivan for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of the Council to grant planning permission for demolition of the existing bungalow and the construction of two pairs of semi-detached houses (4x2 bed units), with off street parking and amenity space.
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Decision

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

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 PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if it fails to substantiate its reasons for refusal at appeal, or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. Planning permission was refused following the Planning Committee's resolution, contrary to the Planning Officer's recommendation and despite the Highway Engineer's technical advice- that there were no sustainable grounds to refuse the application in relation to highway safety. Whilst a Planning Committee is entitled to make decisions that are contrary to the officer recommendation, there is an expectation that where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal.
5. The heart of the applicants' claim is that the Council's behaviour was unreasonable in refusing planning permission on highway safety grounds in failing to take proper account of the development plan, national policy and the technical advice provided by the Council's Highway Engineer. The applicant considers that the Council's reasons for refusal were unsubstantiated on a proposal that ought to have been approved.
6. Whereas the evidence of the applicant, and the evidence of its own Highways Engineer clearly showed that, not only would the proposal meet the parking standards of the Local Plan, but that it would be more generous than the

standards of the London Plan, the Council estimated that the proposal would result in demand for at least an additional four parking spaces in the area.

7. While the proposal would result in the loss of one on-street parking bay, technical evidence including additional parking surveys to assess parking stress were conducted, at varying times and on different days, in order to secure a representative data set. The evidence clearly demonstrated that what existing parking stress there was would not be materially exacerbated by the proposed development. The technical evidence was submitted for the Council to consider before it determined the application, evidence on which the Council's Highway Engineer concluded that it would be difficult to describe any impact of the proposed development as severe.
8. The Council was wrong in the conclusions it reached. It refused an application that clearly should have been approved, and it failed to substantiate the reasons for its refusal at appeal. The Council's conclusion was unreasonable. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a full award of costs is therefore justified.

Costs Order

9. 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 Ms B Keeper and Ms D Sullivan, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. 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.

N Kempton

INSPECTOR