



Costs Decision

Inquiry held on 16-19 and 23-26 July 2024

Site visit made on 18 July 2024

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2024

Costs application in relation to Appeal Ref: APP/G5180/W/24/3340223 2-4 Ringers Road and 5 Ethelbert Road, Bromley, BR1 1HT

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Bromley for a partial award of costs against Ringers Road Properties Ltd.
 - The inquiry was in connection with an appeal against the refusal of planning permission for demolition of existing buildings and construction of a mixed use development comprising residential units, ancillary residents' facilities (including co-working space) and commercial floor space (Use Class E) across two blocks, along with associated hard and soft landscaping, amenity spaces, cycle and refuse storage (Revised scheme incorporating a second stair into Block A and Block B, internal layout and elevational changes, and changes to the on street parking bays and footpath along Ringers Road and Ethelbert Road).
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Decision

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

The submissions

2. The costs application by the applicant (the Council) and the response by Ringers Road Properties Ltd (the appellant) were both made in writing during the Inquiry.

Reasons

3. 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.
4. The application relates only to sunlight and daylight matters and its terms are set out in the Council's written submission. In brief, modelling inaccuracies made by the appellant and set out in its relevant proof of evidence were challenged by the Council. The appellant's model was updated but required the Council to make additional submissions to the Inquiry beyond its initial proof of evidence. Although this improved the common ground between the parties, the process resulted in significant additional work being undertaken by the Council at a relatively late stage in the appeal, and some work in hand no longer being required.
5. The application is not contested by the appellant.

6. The appellant behaved unreasonably by initially relying on incorrect data in its evidence. The Council incurred wasted expense by having to analyse and verify the errors, negotiate with the appellant in the provision of new modelling, test the updated data and provide additional evidence to the Inquiry. It also led to the Council's decision to not contest part of the one of the main issues in the appeal, for which evidence was already being prepared.
7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of sunlight and daylight matters and a partial award of costs is therefore warranted.

Costs Order

8. 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 Ringers Road Properties Ltd shall pay to the Council of the London Borough of Bromley, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the analysis of the appellant's evidence on daylight and sunlight, the preparation of additional resultant evidence, and the abandonment of work already undertaken, with such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Ringers Road Properties Ltd, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

G Rollings

INSPECTOR