



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 Ringers Road Properties Ltd for a partial award of costs against the Council of the London Borough of Bromley.
- 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).

Decision

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

The submissions for the applicant (Ringers Road Properties Ltd)

2. The costs application was submitted in writing and the final rebuttal was made orally at the Inquiry. The following additional points were made: that professional views must be reasonable and that parties must not be reluctant to express an opinion when the views are clearly wrong or unsubstantiated, that the borough has a large supply of family housing, and that town centres are suitable locations for one- and two-bedroom dwellings.

The response by the Council of the London Borough of Bromley

3. The response was made orally, with a written copy submitted to the Inquiry.

Reasons

4. 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.
5. The application is made in respect of two main issues in the appeal: heritage matters and the proposed housing mix. I shall examine each in turn. The Council's heritage witness found that a scheme allowed on a previous appeal caused no harm to the town centre conservation area, but that the appeal

- proposal, which is close to the site of the allowed scheme, would cause harm including considerations of cumulative effects.
6. The applicant's assertion that the Council's witness is wrong is a matter of professional opinion. The witness agreed with the Inspector's views relating to the previously allowed scheme and added his own views in respect of the appeal scheme and its impacts, which formed a large part of the Council's evidence on the heritage issue. That Inspector considered the "back drop and a context of greater height"¹ of other buildings when viewed in the context of the allowed scheme, and the appellant was correct to revisit and review this matter given the proximity of the appeal site to that scheme. At this distance, clustering effects are a reasonable consideration.
 7. The witness also considered that the town centre was not an urban location, despite its metropolitan importance. In his evidence, the witness differentiated between the urban character of the high street with the more suburban character of the streets leading away from it. The reasons for this were clearly expressed in the Inquiry. Other parties differently characterised the appeal site and its immediately neighbouring site or considered it to be transitional in nature. In this context it is not unreasonable for the witness to express a particular view, particularly given that assessment of the built environment can result in multitudinous subjective opinions deriving from the same objective base evidence.
 8. Although some parts of the Council's evidence were unclear, these areas were expanded under examination. The fact that some topics in the witness' evidence were not corroborated by other parties does not lessen the importance of his own opinion to the Inquiry and does not necessarily render it incorrect. The weighting of public benefits against the perceived heritage harm was carried out by the Council with an overall different outcome to that of the applicant, and I find no fault with the heritage component of this process. I do not consider that the Council has acted unreasonably in its assessment of the heritage main issue.
 9. Turning now to the housing mix, the applicant's submission sets out the relevant development plan policies applicable to this issue, and that these offer a flexible approach to providing housing on a site-by-site basis. The Council's evidence indicates that there is a need for homes of various sizes in the borough, and that need was interpreted in different ways by the Council and the applicant. Appropriate evidence was provided by the Council in defence of its position, which used the flexible nature of the policies and local housing need, and applied it on a borough-wide basis with reference to town centre provision. I find that it did not behave unreasonably in this matter.
 10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

G Rollings

INSPECTOR

¹ Para. 12 of Appeal Refs APP/G5180/W/21/3285586 and APP/G180/W/21/3288856.