
Costs Decision

Site visit made on 20 November 2024

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Costs application in relation to Appeal Ref: APP/G5180/X/23/3323690 5 Leaves Green Crescent, Keston, Kent BR2 6DN

- 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 Callum Harwood for an award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the Council's decision not to issue a lawful development certificate for an outbuilding to issue an enforcement notice against the stationing of a caravan to be used as an outbuilding.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. This costs application is for a full award and appears to be based on a mixture of substantive and procedural grounds. In essence, the applicant takes issue with the fact that the Council's officers case report recommended that a lawful development certificate (LDC) be granted for the development proposed. However, the application was ultimately a committee determination and the committee members saw fit to go against the officers' recommendation. Accordingly, the application was refused.
4. An overturn in itself is not sufficient grounds to allow for an award of costs. However, vague and unsubstantiated reasons for refusal can result in such.
5. With reference to the committee meeting's minutes it would appear that the size of the caravan was of concern to the members, and most likely its appearance also which, from the submitted plans, confirms that the caravan is of the mobile home type. On this basis it is often a concern, although not directly referred to here, that the development would create an independent self-contained residential unit, by the back door.
6. In the above regard I note that the Design and Access Statement states '*The caravan will be primarily used as a music/hobby room along with a store....*' The word 'primarily' could be seen as open to interpretation and, most likely, served to encourage members adopting a cautious approach in the committee reaching its decision.

7. In the circumstances I can perhaps understand the reason the committee reached the decision it did.
8. Given the committee's decision which, went contrary to the legal advice received by officers, and the ensuing appeal, officers decided not to contest the appeal. In my view this represented a sensible approach. However, I understand from the representations made that a follow-up s192 application for an identical development has been subsequently approved by the Council yet the decision notice has yet to be issued. The explanation is that the Council is awaiting the outcome of the current appeal. This is somewhat irregular and is not good practice but my remit here is limited only to the application at appeal. Accordingly, the Council's procedural approach regarding the follow-up submission cannot be brought under the umbrella of this costs application
9. On balance, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. I therefore refuse the application for an award of costs.

Timothy C King

INSPECTOR