



Costs Decision

Site visit made on 11 December 2024

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 14th January 2025

Costs application in relation to Appeal Ref: APP/G5180/D/24/3342996

41 Lennard Road, Bromley BR2 8LN

- 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. Ray Johnson for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of an application for planning permission for the addition of first floor to create two storey dwellinghouse, demolition of existing outbuilding and conservatory and construction of single storey rear extension.
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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 application essentially relies on the fact that the Council took a significant time to issue a decision notice leading to the submission of a non-determination appeal, which was not accepted by the Planning Inspectorate, did not satisfactorily engage with the applicant throughout the process and did not take adequate account of a similar nearby scheme that was granted planning permission.
4. The Council highlight that the applicant was advised that due to resourcing issues planning applications were taking longer than normal to decide and in any event regular contact had taken place with the applicant throughout the process, including advising them about concerns with the proposed development. Following receiving those concerns the applicant specifically requested the Council to hold off making a decision. There was then a several month delay until the applicant addressed the concerns raised and submitted revised plans that were accepted. Following acceptance of the revised plans the Council consider they kept communications open, including asking for additional further information. They also highlight that both parties were responsible for delays.
5. In relation to the planning merits the Council highlight that they determined the application based on material planning considerations and that the other case raised was materially different from the proposal subject of this appeal. The applicant provided a detailed rebuttal to the Council's point which I have taken into account in the determination of this costs application.

6. It is clear that the application did take a considerable time to determine. However, there are some extenuating circumstances which relate to resourcing at the Council, waiting for consultees to respond, setting out concerns and awaiting a detailed response which included a material amendment to the scheme which was accepted and then considered prior to the planning application being refused. This led to delays on both sides and the applicant has fairly accepted that nearly a third of the alleged delay was accumulated by them.
7. Although I accept that the Council did not uphold the Planning Guarantee for the determination of minor applications, due to the extenuating circumstances I am not satisfied that the Council has acted in such an unreasonable manner in relation to timeliness that this has resulted in the applicant incurring unnecessary or wasted expense in the appeal process.
8. In relation to the planning merits, it is clear that whether or not the proposal would have an adverse impact on the character and appearance of the area was a matter of planning judgement and the delegated report makes a sufficient case to support the Council's view. Their judgement is supported by specific references to policies of the development plan including a policy in relation to a setback distance with which the proposal did not comply. While I have come to a different judgement on the planning merits, I consider that the approach of the Council was arguable. Therefore, including this matter as a reason for refusal does not result in unreasonable behaviour.
9. Similarly, although I accept there are some similarities between the proposal subject of the appeal and another scheme, there are also material differences. For example, the other scheme did not involve a proposal that abuts an adjoining boundary. Further, the other scheme is located in a different location and consequently its impact on its surroundings is also different. As a result, it is not unreasonable for the Council to have reached a different view in relation to these separate schemes and therefore the Council have not acted unreasonably.
10. In my judgement, when considered in the round, the Council's case was sufficient to raise concerns about the impact of the proposal on the character and appearance of the area. Overall, I do not consider that the Council has acted in such a way that it should be considered to be unreasonable behaviour that has led to unnecessary or wasted expense in the appeal process. Similarly, although there was some considerable delay during the application process, for the reasons set out above the behaviour of the Council was not so unreasonable as to justify an award of costs.
11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR