



Costs Decision

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Costs application in relation to Appeal Ref: APP/G5180/D/24/3355887 Logmore, Stanley Road, Orpington, BR6 0ET

- 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 & Mrs Toumi for an award of costs against the decision of the Council of the London Borough of Bromley.
 - The appeal was made against the refusal of an application, Ref DC/24/03161/FULL6, which sought planning permission for the demolition of existing garage and construction of a single storey side/part rear extension, elevational alterations, and detached replacement cycle store.
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Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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. Unreasonable behaviour may be either procedural or substantive.
 3. The Applicants argue that there has indeed been unreasonable behaviour by the Council. They consider that the Council's decision to refuse planning permission did not have sufficient regard to a significant material consideration, namely the granting of planning permission for a larger proposal in 2021 under ref: 21/00402/FULL6.
 4. The Applicants comprehensively compare the favourable commentary for this previous two storey scheme with the, in their view, inconsistent, and negative appraisal given to the smaller single storey proposal which is appealed. They argue that much more weight should have been given to the recently expired permission given that circumstances and the planning policy position had not changed. Furthermore, there is criticism that a conclusion on alleged impact had not arisen from any proper full and detailed analysis of the streetscene, or a physical visit to the site. It is put that the Council's case lacks evidence.
 5. The Council has not commented on the claim.
 6. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.
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7. I recognise that the appeal process can be time and fee consuming and that professional assistance comes at a cost. It is clearly regrettable when Applicants feel that the processing of a planning application could have been dealt with better.
8. In terms of how the application was handled, the relevant report written, and the composition of the refusal reason on the Decision Notice, I would say that due diligence appears to have been used, knowledge of the site is very apparent, and clear general and specific explanations provided. The suitability of a scheme, whilst led by policy, will almost always have a degree a subjectivity.
9. I entirely take the Applicants' point that one might expect a single storey extension to have 'less impact' and thus more suitability than a two-storey scheme, and thus to be applying on that basis. However, as the Applicants fairly say, it is every case on its merits, and the Council clearly felt, perhaps unusually, more uncomfortable with the latest scheme than its predecessor. Although I might not personally put this in the category, there can be cases where smaller is not always the better option. Over recent years there has been a greater emphasis nationally on achieving good design, and it is not beyond the bounds of reason to think that Council Officers may have become more sophisticated in analysis, or even learned from mistakes, and that this has been in play here.
10. As it happens, I do not agree with the conclusion reached by the Council on the scheme. I would nevertheless defend its wording and assertions in the round as not being improper or overly vague, and its actions throughout the planning assessment process as not being irrational, improper, unduly inconsistent or lacking appropriate analysis.
11. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR