



Costs Decision

Site visit made on 26 March 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2025

Costs application in relation to Appeal Ref: APP/G5180/W/24/3352324 Foxburrow Wood, Land at Cackets Farm, Cackets Lane, Cudham, Sevenoaks TN14 7QG

- 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 Cornerstone for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of the Council to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a 20m FLI Pine Tree Tower (painted green) accommodating 3no. antennas, 2no. microwave dishes & RRUs, the installation of 3no. equipment cabinets with ancillary works.
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Decision

1. The application for an award of costs is allowed in part, as set out below.

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 provisions of the 2015 General Permitted Development Order (the GPDO) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. The principle of development is established by the GPDO, and regard to the development plan, including the fact that the appeal site is within the Metropolitan Green Belt, is not required. That said, policies relevant to matters of siting and appearance may be taken into account as a material consideration.
4. The reason for refusal cites harm to the visual amenities and openness of the surrounding area, Green Belt and adjacent conservation area. Conflict with development plan policies, including Policies 37 and 49 of the Bromley Local Plan, is identified.
5. Policy 37 pertains to the general design of development, requiring it be attractive to look at and contribute positively to the existing landscape. Even if I had not found the proposal harmful in these respects, there would have been no fault on the part of the Council in considering the proposal to conflict with this policy, as it pertains to matters of siting and appearance. Conflict with this policy is sufficient to result in refusal and, therefore, even if the Council had made no reference to the Green

Belt, the application would have been refused. The appeal could not have been avoided and, as a result, I do not support the application for full costs.

6. The Council Planning Officer Report sets out an explicit understanding of the relevant GPDO provisions in an unnumbered paragraph on page 3, and whilst unqualified use of the terms 'Green Belt' and 'openness' thereafter is unhelpful given the implications of both in strategic policy terms, there is no evidence that the proposal was found inappropriate in the context of Green Belt policy, or that such a test was applied.
7. It is not, in itself, unreasonable that such terms be used as descriptors; the rural character of the site may result from, be more likely to persist because of, or be characterised by reference to, its Green Belt designation. It may also be characterised, at least in part, by its openness.
8. However, in including Policy 49 in the reason for refusal the Council has placed these terms in a specific light. That policy pertains exclusively to strategic Green Belt considerations, a point borne out by its supporting text, which makes explicit the connection to the strategic Green Belt aims of the National Planning Policy Framework. Policy 49 does not address considerations pertinent to the siting and appearance of the proposal, and the costs rebuttal from the Council has not identified any way in which it could reasonably be seen as relevant to them. Reliance on Policy 49, even in part, is therefore unreasonable.

Costs Order

9. 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 the Council of the London Borough of Bromley shall pay to Cornerstone, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in addressing the inclusion of Policy 49 of the Bromley Local Plan (2019) in the reason for refusal of the pertinent planning application, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the Council of the London Borough of Bromley, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Knight

INSPECTOR