



Costs Decision

Site visit made on 14 March 2025

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

Costs application in relation to Appeal Ref: APP/D5120/W/24/3353667 120 Northumberland Avenue, Welling DA16 2PZ

- 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 D Rugless for a full award of costs against the Council of the London Borough of Bexley.
 - The appeal was against the refusal of the Council grant planning permission for the erection of a part one- and part two-storey front, side and rear extension, and a change of use from dwellinghouse (Use Class C3) to House in Multiple Occupation (Use Class C4).
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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 ("the 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. Paragraph 049 of the PPG gives examples of behaviour which may give rise to a substantive award of costs against a local planning authority. These include a "failure to produce evidence to substantiate each reason for refusal on appeal", making "vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis", "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations", and "not determining similar cases in a consistent manner"¹.
4. The applicant considers that their claim for an award of costs falls broadly within the scope of those examples, and that in particular the Council failed to have proper regard to planning law and relevant material considerations including local policy. The applicant's case was set out with reference to the three reasons for refusal on the Council's decision notice, so it is convenient for me to approach them in the same way here².
5. The first reason for refusal related to the effect of the proposed development on the character and appearance of the area; the applicant considers that the harm identified by the Council (in terms of visual clutter arising from the number of bins and cycle stores, and a lack of soft landscaping) is already a factor in the character of Northumberland Avenue. The matter is dealt with at length in my main decision; it is sufficient here to say that, notwithstanding that some harm has undoubtedly

¹ Paragraph: 049 Reference ID: 16-049-20140306

² This is not quite the same order as the issues are dealt with in my main decision.

- already been caused to the character and appearance of the surrounding area by insensitive development and alterations, the harm which would arise from the appeal scheme would be appreciably greater. I do not find that the Council behaved unreasonably in respect of this reason for refusal.
6. The second reason for refusal related to the impact of the use of the property as a House in Multiple Occupation (“HMO”) on the housing mix, and housing choice, in the area. The applicant’s claim on this point suggested pre-emptively that “the LPA will be unable to substantiate the harm they identify within reason 2 and this is based on some very vague assumptions”. In fact, the Council’s appeal statement substantiated briefly, but in clear and reasonable terms, the harm that they considered would be caused to the housing balance and mix in the area arising from there being HMOs in two adjoining properties (as would have been the case if the appeal had been allowed).
 7. For the reasons which are again set out at length in my main decision, I reached a different conclusion to the Council in respect of housing mix and choice. However, that I did so is not in itself an indication that their reason for refusal was vague or unsubstantiated. I do not find that the Council behaved unreasonably in respect of the second reason for refusal.
 8. The third reason for refusal related to the lack of information put forward by the applicant in respect of highways and parking matters. The applicant’s claim for an award of costs on this matter suggests that the “property as authorised” – that is, its use as a C3 dwellinghouse with three bedrooms – “would generate the same off-site parking need as the proposed development” – that is, a six-bedroom HMO – “and as such there would be no demonstrable harm between the two positions”.
 9. Again, this matter is dealt with at length in my main decision. Suffice to say, I did not agree that an HMO with six adults living independently (or semi-independently) in an area with relatively poor public transport connections would be likely to have the same impact in terms of vehicle movements or parking demands as would the existing smaller dwelling occupied by a single family group. That the appeal scheme would have complied with the maximum parking standards of the London Plan 2021 is not therefore a consideration of great significance; the potential for harm to be caused in respect of highway safety is much more wide ranging than whether or not a development would comply with parking standards, and the information submitted by the applicant was not sufficient for an informed assessment of the matter to take place. I do not find that the Council behaved unreasonably in respect of the third reason for refusal.
 10. The final example of unreasonable behaviour put forward by the applicant, also set out in Paragraph 049 of the PPG, is “persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable”. This is not expanded upon in the applicant’s claim. My assumption here, simply because nothing else which has been put before me could fit the bill, is that it may be a reference to a recent appeal decision elsewhere in Bexley³ which was brought to my attention during the appeal⁴. However, while the type of development was similar in that other appeal, overall (as I have explained in my main decision) there were other significant differences between the main issues

³ PINS Ref: APP/D5120/W/24/3342610

⁴ And even this assumption sets aside the fact that the other appeal decision was issued on 21 November 2024, some time after the applicant’s appeal statement, which included the claim for an award of costs, had been submitted to the Planning Inspectorate.

in the two appeals. That an appeal relating to a similar use has been allowed elsewhere in the borough does not in itself demonstrate that the Council has behaved unreasonably in this case, given those significant differences.

11. While I did not agree with every element of the Council's assessment of the proposed development, it is of some relevance to this claim that, taken as a whole, I accepted their case and dismissed the appeal; it should be clear from this that I cannot find that the Council prevented or delayed development which should clearly have been permitted. No substantive evidence has been put before me which demonstrates that the Council failed to have proper regard to planning law and relevant material considerations including local policy, or that it acted in a way which is in line with any of the other examples of unreasonable behaviour suggested by the applicant.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not occurred, and an award of costs is not warranted.

M Cryan

Inspector