



Costs Decision

Site visit made on 7 May 2025

by **J Heppell BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th of June 2025

Costs application in relation to Appeal Ref: APP/G5180/W/24/3357689

Woodhayes, 76A The Avenue, Beckenham, Bromley BR3 3ES

- 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 J Miller of Devonshire Developments Limited for a full award of costs against the Council of the London Borough of Bromley.
 - The appeal was against the refusal of planning permission for development.
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Decision

1. The application for an award of costs is allowed in the terms 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 PPG makes it clear that a local planning authority may be at risk of a substantive award of costs where it does not determine similar cases in a consistent manner. In this instance, the Council granting planning permission for a scheme of six houses before the appeal was determined¹. The appeal proposal, which is for seven houses, has many similarities with the permitted scheme, including a significant element of backland development.
4. The reason for refusal of the appeal scheme states that the proposed tandem layout, including the scale and siting of the rear terrace of dwellings and the proximity of the access road to the boundary of 76C The Avenue, would be out of keeping with the surrounding area. The subsequent permission for six houses, which includes tandem development and an associated access road, was nonetheless considered to be an acceptable form of development by the Council.
5. The decision notice granting planning permission for six houses was issued on 27 February 2025, following a resolution to grant planning permission at Committee on 6 February. The Council's Statement of Case is dated February 2025, meaning it is unclear whether it predated or postdated the Committee meeting on 6 February. On 3 March, ahead of the Council's final deadline on 4 March for submitting its statement of case, the applicant requested clarification from the Council as to whether it still intended to defend the appeal.

¹ LPA reference DC/24/03645/FULL1

6. The Council subsequently indicated on 12 March that it still intended to defend the appeal, arguing that although the grant of permission for three backland houses meant that the principle of tandem development had been accepted, this did not automatically mean that any form of tandem development was acceptable, and that there were distinct and important differences between the two schemes. It did not set out what these differences were.
7. The Council argues in its Response to the Application for Award of Costs that the scheme of six houses was considered by Planning Committee to have “tipped the balance” in favour of the scheme by providing additional soft landscaping combined with a reduction in the level of above-ground development, which provided a more satisfactory solution than the appeal scheme. However, these benefits do not correlate with the concerns raised by the Council, which relate to the scale and siting of the tandem development, the proximity of the access road to 76C The Avenue, and the resultant impact on the character of the area and the living conditions of the occupiers of 76C The Avenue.
8. In granting planning permission for six houses, the Council accepted that tandem development would preserve the character of the area and would not harm the living conditions of existing occupiers. The differences between the two proposals are not distinct and important, as the Council has claimed, and it was therefore inconsistent of the Council to continue to defend the appeal. The Council had the opportunity to withdraw the reason but chose not to do so, which would have avoided the need for the applicant to prepare and submit final comments on 18 March.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred, and a full award of costs is therefore warranted.

Costs Order

10. 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 Mr J Miller of Devonshire Developments Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred after 4 March 2025, such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to 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.

J Heppell

INSPECTOR