



---

## Costs Decisions

Site visit made on 31 October 2022

**by G Dring BA (Hons) MA MRTPI MAUDE**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 December 2022**

---

### **Costs application in relation to Appeal Ref: APP/G5180/W/22/3299838 2 Warren Avenue, Bromley BR1 4BS**

- 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 Ian Dollamore of Urban Infill 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 9 dwellings with associated parking, amenity space and cycle storage.
- 

### **Decision**

1. The application for a full award of costs is refused.

### **Procedural matter**

2. The applicant has submitted a 'cost' application. I understand this to mean that he is applying for a full award of costs.

### **Reasons**

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of an appeal, 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. The application for costs in this case was made by the applicant against the Council on two grounds, firstly in relation to a procedural matter, and secondly in respect of the substance of the appeal.
4. Paragraph 033 of the PPG confirms that whilst the behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded, costs cannot be claimed for the period during the determination of the planning application.
5. The applicant considers that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place in relation to a lack of proactive working to seek amendments during the processing of the application. This was during the planning application stage and not the appeal process and therefore any costs that were incurred cannot be awarded. No compelling evidence has been provided to demonstrate that even if more proactive working had taken place, that the appeal would have been avoided.
6. Paragraph 049 of the PPG indicates that local planning authorities will be at risk of substantive cost awards being made against them for, amongst other things,

vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis as well as 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. The applicant considers that the Council wrongly assessed 2 Warren Avenue as being of historical merit, which led to an unsound decision and the Council assessed the proposal incorrectly against development plan policies and paragraph 11 of the National Planning Policy Framework (the Framework).

7. The reasons for refusal were generally complete, precise, specific and relevant to the application. They and the officer report stated the development plan policies that the Council found the proposal to conflict with and adequately explained the reasoning for the decision including the assessment of 2 Warren Avenue as a non-designated heritage asset. A section on the housing supply situation was also set out confirming that the contribution to the supply of housing would be considered in the overall planning balance. A concluding paragraph in the officer report confirms the Council's view in relation to paragraph 11(d) of the Framework and that they considered that the identified harm arising from the proposal would significantly and demonstrably outweigh the benefits of the development.
8. I am satisfied that the decision to refuse planning permission was taken having regard to this relevant planning policy context, as set out in my appeal decision.
9. On the basis of the information before me I find no unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has been demonstrated, as described in the Planning Practice Guidance, in respect of the procedural or substantive claims. The application for an award of costs is therefore refused.

*G Dring*

INSPECTOR