



Costs Decision

Site visit made on 24 September 2019

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Costs application in relation to Appeals Ref: APP/G5180/C/18/3216957 and APP/G5180/C/18/3216958

48 Wickham Road, Beckenham BR3 6LT

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr John Evans and Mrs Samantha Evans for a full award of costs against the Council of the London Borough of Bromley.
 - The appeals were against an enforcement notice alleging the construction of a two storey side extension.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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 applicants claim that the Council behaved unreasonably in serving the notice on the basis of an assertion about a possible change of use. The applicants maintain there is no intention to divide the property and, if this were to happen, it would require planning permission. Moreover, the Council accepts that the alleged additional entrance has permission by virtue of planning permission reference 15/01053/FULL6. It is claimed that the applicants had no option other than to appeal against the notice which has caused them to incur unnecessary expense.
4. The Council's reasons for serving the notice are based on the premise that the extension has the potential to be severed to form a separate dwellinghouse. The impact of this form of development is set out in detail. However, the Council accepts that a material change of use has not occurred and, if this were to happen, it would amount to a breach of planning control. The Council has accepted that the extension, as at the date of the notice, would not have an adverse impact on the surrounding area as planning permission was granted in 2015 for a very similar development. The concerns are solely based on future scenarios, which may not occur.
5. Overall, the reasons for serving the notice are based on conjecture. The concerns expressed by the Council may be valid but, should the feared scenario occur, this would be a matter for enforcement action in the future.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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 John Evans and Mrs Samantha Evans, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. 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.

Debbie Moore

Inspector