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## Costs Decision

Site visit made on 21 January 2021

**by Lynne Evans BA MA MRTPI MRICS**

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

**Decision date: 08 March 2021.**

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### **Costs application in relation to Appeal Ref: APP/L5240/W/20/3257741 2 Elmpark Gardens, South Croydon CR2 8RU**

- 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 Vasile Chelba for a full award of costs against Council of the London Borough of Croydon.
  - The appeal was against the refusal of planning permission for conversion of existing outbuilding in rear garden to self contained 1 bedroom bungalow.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance 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 application was a resubmission of an earlier application for a similar development under the Council's reference: 19/03313/FUL, which raised one reason for refusal, particularly relating to the size of the remaining rear garden to serve the host property. However, the subsequent application which now forms the subject of this appeal raised three reasons for refusal.
4. Although slightly differently worded, the first reason for refusal on the decision in respect of the appeal now before me appeared to be directed to the same issue as the reason for refusal on the earlier refusal, but the other two reasons extended the issues raised. From a reading of the two decision notices, and the Officer's reports leading to the decisions, it is not clear to me that the three reasons stated on the later decision notice raised the same issues as found in the one reason for refusal on the earlier decision, as indicated by the Council.
5. As the application was submitted to seek to overcome the reason for refusal on the earlier refusal and no other matters appeared to change between the two applications, I agree with the Applicant that it was unreasonable for the Council to introduce new matters in the particular circumstances of this case. The Council did not therefore determine these cases in a consistent manner.
6. Furthermore, in respect of the second reason for refusal and whilst the information submitted was not completely clear, the Council had all the necessary material available within its planning records, given it had comparatively recently granted permission for the extension to No 2 to create

the new attached dwelling at No 2a. I understand that given the pandemic restrictions of the past 12 months there may have been more limited opportunities for site visits, but the material was available to the Council in its own records.

7. However, I have found that the proposed arrangement for the garden space would not be satisfactory and accord with development plan policy. Whilst I have proposed a condition to resolve this matter, I do not consider that the Council was unreasonable in refusing permission on this first reason, relating to the remaining garden size for the host property. For that reason I am only prepared to grant a partial award of costs against the Council, in respect of the work undertaken at appeal by the Applicant in respect of reasons for refusal 2 and 3. Whilst I consider that the Applicant may not have been put to large amounts of additional expense in countering the Council's position, extra costs were possibly incurred and an award in these specific respects is justified.
8. I therefore conclude that a partial award of costs, to cover the expense incurred by the Applicant in contesting the Council's second and third reasons for refusal, is justified.

### **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 Croydon shall pay to Mr Vasile Chelba the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the second and third reasons for refusal.
10. The Applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*L J Evans*

INSPECTOR