



Costs Decision

Site visit made on 17 March 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 MAY 2021

Costs application in relation to Appeal Ref: APP/L5240/W/20/3261916 4 Cheyne Walk, Croydon CR0 7HG

- 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 Mrs Ann Stanhope for a full award of costs against the London Borough of Croydon.
 - The appeal was against the refusal of planning permission for construction of a part single, part double storey side extension to enable conversion of a single dwellinghouse into 4 flats consisting of 1 x 1 bedroom, 1 person unit, 2 x 1 bedroom, 2 person units and 1 x 3 bedroom 5 person unit, along with associated cycle and waste storage provisions
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Decision

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

Reasons

2. An award of costs may be allowed where it is found that a party behaves unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case is that the Council has not determined cases in a similar manner, and it has prevented or delayed development which should clearly be permitted.
4. The Council refused an application at this site in January 2020 for a two-storey side and rear extension and conversion to 5 flats (LPA ref 19/05458/FUL), larger than the extension that is the subject of this appeal. This application was found not to harm the setting of the nearby Grade II listed building.
5. The previous application was determined against the adopted London Plan (2016). The report that accompanies the current appeal scheme also makes clear that the London Plan (2016) remains the primary consideration when determining planning applications, although it does refer to the 'emerging New London Plan' and indicates that weight to be afforded is down to the decision taker. I am directed to the relevant policies in the London Plan (2016) and the 'emerging new London Plan'. Their detailed wording differs but the broad thrust, to be sympathetic to the significance of the setting of the heritage asset, is similar. Nor am I provided with detailed evidence as to how the changed wording would alter the assessment of the proposed development. Furthermore, national policy and Croydon Local Plan have not changed in this time.

6. Therefore, taking all the above into account, I am not satisfied that the Policy context was so changed so as to lead to these applications being determined differently.
7. Although one application was determined under delegated powers and one was determined by committee the decisions in both cases were issued by the Council. The inconsistent application of policy from the Council as the decision taker, however that decision is taken, is unreasonable behaviour.
8. Given my findings above, it follows that a reason for refusal relating to the impact of the setting of the listed building was unreasonable. This was the only reason for refusal and consequently the refusal of the application was unreasonable, and the Council has prevented or delayed development which should clearly be permitted.
9. As can be seen above, I have found that unreasonable behaviour has been demonstrated. On this basis it appears that the Council should not have refused planning permission and the appellant acted reasonably in making the appeal. As this was the only reason for refusal, the unreasonable behaviour on the part of the Council that has been identified above has, as a consequence, led to the appeal and to the appellant incurring unnecessary or wasted expense in the appeal process.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

11. 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 the Council of the London Borough of Croydon shall pay to Mrs Ann Stanhope, 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.
12. The applicant is now invited to submit to the Council of the London Borough of Croydon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Miles

INSPECTOR