



## Appeal Decision

Site visit made on 6 July 2021

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2021

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### **Costs application in relation to Appeal Ref: APP/L5240/W/20/3264505 15A Russell Hill, Purley, CR8 2JB**

- 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 Russell Hill Ltd against the decision of London Borough of Croydon.
  - The appeal was made against the refusal of an application, Ref 20/03755/FUL, which sought planning permission for the demolition of existing single storey detached dwellinghouse (with roof accommodation) including demolition of detached garage and erection of a three storey building comprising 9 self-contained flats; private/communal and play space; hard and soft landscaping; boundary treatment; reinstatement of existing crossover and new crossover to provide forecourt parking; cycle and refuse provision and land level alterations including raising to the front.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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 Appellant argues that there has indeed been unreasonable behaviour by the Council. In short it is put that the Council failed to objectively analyse the proposals and made unacceptable and avoidable errors. Had the Council assessed the proposals objectively and with greater care, an appeal could have been avoided or at the very least, the reasons for refusal significantly reduced.
  4. There is concern by the Appellant that 'scale' had not be assessed objectively, bin store siting wrongly and inconsistently considered, and degree of hardstanding exaggerated and not suitably compared to the outline permission or surrounds. The Council got wrongly side-tracked on the development potential of 15B Russell Hill and the mistaken potential of mutual overlooking. Communal amenity areas were incorrectly criticised. Living condition assessments and review of side facing windows have been treated inconsistently in the locality and in error on this case in the opinion of the Appellant. The planning officer sought to influence, ignored and went against the tree officer's advice, which was that there were no reasons to refuse on arboricultural grounds. There was no acknowledgement in the delegated report that the Council's arboricultural officer had been consulted and raised no
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- objection. The planning officer was also seeking to influence transport officials in the Appellant's opinion.
5. In summary it is put that the three reasons for refusal cited by the local planning authority rely on vague, generalised or inaccurate assertions about the proposed development which are unsupported by any objective analysis.
  6. The Council says it makes it very clear why the level of development being proposed was too much for the site and it took into account published design guidance and facts of the case. The bin store was merely one element of concern in the context of excessive hard-standing and outside communal areas would be of poor quality. It is put that the Appellant is not comparing like for like in terms of other developments. The Council repeats its concerns with the planned development as a whole and does feel there would be difficulties arising from adjacent development. The Council feels it has been consistent through pre-application advice to final determination, it was the Appellant's decision to move forward with the submitted scheme, that it is common and good practice for planning officers to informally discuss applications with consultee officers, and that it is important to note that the planning application was determined expeditiously.
  7. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.
  8. I have judiciously appraised the Officer's Report and the Decision Notice along with all the points raised by both parties. I have to say that I found the report to be comprehensive, balanced and reasonably constructed albeit in my experience it is unusual not to set out internal or external consultee responses in addition to neighbours' comments. On the tree front the planning officer has taken a holistic view including aesthetics and not just a technical assessment and I find that to be not unreasonable. There was no transport related objection. It seems to me that the scale of the proposed building has been fairly considered in all its components. The report does have some side-tracking, not least on the question of neighbouring development potential, but the crux, rather than peripheral matters, is set out within the report's conclusions and planning balance section and then in the 3 well-defined reasons for refusal which follow-on in my opinion. The Decision Notice is clear and sets out unequivocally the concerns of the Council. The reasons rightly refer to the applicable policies and clearly stem from the report.
  9. In conclusion, the Council's commentary throughout is lucid, sufficiently full and a reflection of the judgement of those who determined this proposal. On the evidence it had available, and against the proper planning policy template, it has provided a respectable standpoint within the reasons set out on the decision notice and as the background and justification in reaching that decision; the Council's stance was certainly not in any way irrational.
  10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

*D Cramond*

INSPECTOR