



Costs Decision

Site visit made on 15 March 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2022

Costs application in relation to Appeal Ref: APP/L5240/W/21/3275309 72 Lower Addiscombe Road, Croydon CR9 6AB

- 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 N Gani for a full award of costs against London Borough of Croydon.
 - The appeal was against a refusal to grant planning permission for 'Extensions to building to deliver nine new dwellings'.
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Decision

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

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. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where an LPA has failed to produce evidence to substantiate each reason for refusal on appeal or has made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
3. The applicant made their costs application orally at the hearing during which concerns were raised in respect of the validity of the reasons on which the council based its decision. It was suggested that the first reason relating to the effect on the character and appearance of the area was flawed having regard to the existing site context, the fact that the council had confirmed agreement with the applicant's heritage note and given the provisions within the London Plan 2021 and the National Planning Policy Framework that seek to deliver more homes.
4. Whilst I have concluded that the proposal would have an acceptable effect on the character and appearance of the area, this is a subjective matter. In its delegated report the council clearly detailed the aspects of the design which led to the conclusion that, in its view, the development would not be acceptable from a visual perspective. With regards to the agreed heritage note, the significance of the Grade II Listed Leslie Arms Public House including its setting are tightly defined in this instance and relate to the architecture of its front elevation and appreciation of it. Therefore, this is a distinctly separate matter to an assessment of the wider character and appearance of the area. Furthermore, the support in national and local policy for increasing the provision of new homes is subject to proposals responding to the surrounding

built context and the council was entitled to come to its own view in this regard.

5. With regards to the reasons for refusal relating to the living conditions of neighbouring occupiers and future occupiers of the host building, the applicant suggested at the hearing that it had proven through its appeal submissions and representations at the hearing that none of the issues within the council's decision were accurate.
6. Even though I have found that the overall the levels of light for existing and future occupiers would be acceptable, the applicant's own daylight and sunlight report does identify instances where the Building Research Establishment (BRE) guidance criteria would not be met. It is therefore a matter of planning judgement as to what level of tolerance there is in considering what is acceptable. For the reasons set out in my appeal decision I agree with the council that the proposal would provide poor living conditions for some of the future occupiers of the building in terms of outlook and means of access and for some neighbouring occupiers on Lower Addiscombe Road with regards to privacy. Therefore, the council was not unreasonable in citing such matters within its decision notice.
7. At the hearing the applicant contended that the reason for refusal relating to the proposed parking layout only materialised as a result of the council's insistence that parking spaces should be provided on the site. Whether or not this was the case, the council determined the planning application based on the drawings before it. The council clearly set out its concerns and it is a fact that, based on the proposed layout, inter-visibility between drivers and pedestrians would be impeded to some extent by pillars. Taking into account site specific factors I have reached a different conclusion on this matter to the council. Even so, this is a subjective matter. Had this reason for refusal not been included, given the Council's other concerns, this would not have meant that an appeal could have been avoided altogether.
8. Finally, the applicant contends that there was no discussion with regards to a requirement for a contribution towards sustainable transport initiatives and that if there had been, this would have been provided. As the council was refusing the planning application on the other grounds, it would have been unreasonable for it to have pursued a legal agreement including the necessary contribution as this would not have altered the overall conclusion.
9. For the reasons set out, I therefore find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR