
Costs Decision

Site visit made on 7 March 2022

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 MARCH 2022

Costs application in relation to Appeal Ref: APP/L5240/W/21/3279654 46 Welcomes Road, Kenley CR8 5HD

- 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 James Hannah of Church Hill Holdings for a full award of costs against the Council of the London Borough of Croydon.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the erection of a frontage block of six flats and a pair of semi-detached houses; and the demolition of the existing detached bungalow.
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Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's grounds for an award of costs are twofold: a procedural ground based on the lack of engagement by the Council during the application process; and a substantive ground on the basis that there were no good reasons on which to oppose the development.
4. Procedurally, while I understand the appellant's frustration at the limited response from the Council towards the end of the application process, that is not relevant to the appeal process. So far as the appeal process is concerned, the Council has responded within the relevant time scales as regards the submission of information and appeal statement, as it is required to do.
5. On the substantive ground, the Council has provided reasons why it would have refused planning permission and has substantiated those reasons in its appeal statement. The reasons include matters of judgement on the balance to be struck between housing growth and character, and more technical reasons relating to building standards, ecology and sustainable transport. While I have found in favour of the appellant in this case, these reasons are based on material planning considerations and it was not unreasonable for the Council to argue them where it felt harm would be caused. On some issues, I have found that there is conflict with policies in the development plan, the difference

between myself and the Council being that I have concluded that they are amenable to correction through conditions or reserved matters. Those conclusions are also matters of judgement rather than ones of principle. The level of objection to the scheme, and the range of issues that are material, indicate that the decision on this case is by no means a simple one.

6. The Planning Practice Guidance advises that, in cases of non-determination and where the appeal is allowed, the local planning authority may be at risk of an award of costs if the Inspector concludes there was no substantive reasons to justify delay or better communication would have enabled the appeal to be avoided altogether. While it is likely that some of the more technical reasons could have been resolved with more communication, it is clear that there are other substantive grounds on which the Council is opposed to the scheme, and which would have resulted in a refusal in any case. The appeal was therefore inevitable.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR