The Planning Inspectorate

Costs Decision

Site visit made on 24 May 2022

by C Shearing BA (Hons) MA MRTPI

An Inspector appointed by the Secretary of State

Decision date: 20th June 2022

Costs application in relation to Appeal Ref: APP/L5240/W/21/3279092
335 Lower Addiscombe Road, Croydon CR0 6RG

- 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 A Datoo of ATF Construction Ltd for a full award of costs against the London Borough of Croydon Council.
- The appeal was against the refusal of prior approval for erection of 4th floor to create 4 additional, independent residential units.

Decision

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

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The applicant claims that the Council's behaviour was unreasonable through its failure to assess the application for prior approval correctly. This includes failing to refer to the correct part of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GDPO), and reliance on development plan policies and supplementary planning guidance.

4. The Council's failure to assess the application under the correct part of the GDPO constitutes unreasonable behaviour in relation to a fundamental procedural matter. Furthermore, the Council's officer report fails to consider the provisions of the National Planning Policy Framework (the Framework) in its assessment. This is a specific requirement of the GPDO as part of the procedure for applications for prior approval under Part 20. This was also procedurally unreasonable.

5. The inclusion of development plan policies in the Council's assessment is not, in and of itself, unreasonable, as they are applied only to the subject matter. However, it would appear that the development plan policies were used as a basis for the Council's planning judgement, rather than to support it. Despite this, I do not find the Council's assessment to be overly prescribed, as the officer report did identify that the main considerations are limited to those given under the scope of the relevant sections of the GPDO.

6. The Council have commented that the considerations under Part 1 Class AA and those Part 20 Class AA of the GDPO are similar insofar as they require assessment of the external appearance of the building and that, even if the Council had considered the application correctly, the application for prior approval would still have been refused.

7. Despite the significant shortfalls of the Council's assessment, in considering the main issue the officer report describes that the proposed additional storey would result in the building dominating others in the area, having an adverse impact on the immediate surroundings. This assessment would have very likely been the same even if the correct Part of the GDPO were applied.

8. Consequently, as the application for prior approval would have been refused in any event, I find that there was not unnecessary or wasted expense through entering into the appeal process which was ultimately the applicant's decision.

Conclusion

9. While the Council did behave unreasonably, the expense of the appeal process was not unnecessary or wasted, and as such both parts of the test set out in the Planning Practice Guidance have not been met. Consequently, the application for costs is refused.

C Shearing

INSPECTOR