



Costs Decision

Site visit made on 28 March 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Costs application in relation to Appeal Ref: APP/L5240/W/22/3302661 Braeside and Tree Tops, Firs Road, Kenley, Croydon, London CR8 5LD

- 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 Indigo Scott Firs Road LLP for a partial award of costs against London Borough of Croydon.
 - The appeal was against the refusal of planning permission for demolition of two existing bungalows (Use Class C3) and the erection of four 2-storey plus roof level buildings comprising 8 self-contained dwellinghouses (Use Class C3) and associated landscaping, car and cycle parking and refuse storage.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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.
3. The substantive points in the appellants cost application relate to the second reason for refusal only which relates to car parking and includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. As well as the failure of the Council to substantiate a stated reason for refusal.
4. Maximum residential parking standards are set in the London Plan (2021) (LP) as up to 1.5 spaces per dwelling for this scheme. The use of these maximum standards is supported by Policies SP8.17 and DM30 of the Croydon Local Plan (2018) (CLP) and Policies, T6 and T6.1 of the LP. However, the clear emphasis of these policies is on sustainable transport modes with development designed to provide the minimum necessary parking. Whilst an alternative higher provision may also be compliant with these policies, given that they are maximums, the level of parking provided does not conflict with these policies. Furthermore, although Policy DM29 was not listed in the reason for refusal, this also promotes sustainable travel, and requires appropriate effects on highway safety and the transport network.
5. There were other considerations before the decision maker in the form of local evidence that on street parking was undesirable and comments from the transportation team. However, the detailed evidence that was also before it in the form of a parking stress survey clearly demonstrates that some on street parking could be accommodated without harm to highway safety or living

conditions, and this evidence is directly relevant to the proposed development. Furthermore, there is nothing in the policies listed in the reason for refusal that would require development to fully accommodate its parking impacts on site in these circumstances.

6. The scheme proposes 4 and 5 bedroom homes and the Council have asserted that car ownership is likely to be higher in these larger properties. However, the standards differentiate between smaller (1-2 bedroom) and larger (3+ bedroom) homes and therefore take into account these differences.
7. Consequently, in this regard the development was in accordance with Policies SP8.17 and DM30 of the CLP and Policies T6 and T6.1 of the LP, and the other considerations put forward were clearly rebutted by detailed and pertinent evidence that was before the Council at the time it made its decision. As such it would be unreasonable to conclude that these indicate that permission should otherwise be refused. As such reason for refusal 2 was unreasonable.
8. It was unfortunate that due to an IT issue the Council's statement of case was submitted after the deadline and therefore it was not seen by the Inspector or the appellant. As such this reason for refusal was not substantiated at appeal. Nonetheless, the appeal would have been necessary in any case, in relation to reason for refusal 1. As such any wasted time and expense relates to the defence of the second reason for refusal at the appeal stage only.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the defence of reason for refusal 2 in the appeal process and a partial award of costs is therefore warranted.

Costs Order

10. 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 that London Borough of Croydon shall pay to Indigo Scott Firs Road LLP the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the defence of reason for refusal 2 in the appeal process only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to 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