



## Costs Decision

Site visit made on 11 July 2023

**by C Carpenter BA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 August 2023**

---

### **Costs application in relation to Appeal Ref: APP/L5240/W/22/3313632 220 Brighton Road, Purley CR8 4HB**

- 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 Robin Lewis (Brighton Road 2020 Ltd) for a full award of costs against the Council of the London Borough of Croydon.
  - The appeal was against the refusal of planning permission for demolition of the existing two storey house and detached garage and erection of a four-storey building to provide 9 units with associated new vehicular access, car parking, cycle/refuse storage and soft/hard landscaping.
- 

### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The applicant considers the Council has exhibited unreasonable behaviour that is procedural in nature. They argue that Council Members delayed the determination of the planning application until the Croydon Suburban Design Guide Supplementary Planning Document (CSDG SPD) had been revoked. They add this was not consistent with paragraphs 11(c) and 47 the National Planning Policy Framework (the Framework), which require decision-takers to approve development proposals that accord with an up-to-date development plan without delay, and to make decisions as quickly as possible; or with Policy SP1 of the Croydon Local Plan (CLP), which includes similar provisions. They suggest the appeal would not have been needed had the delay not occurred.
4. I understand the Council's Planning Applications Committee (PAC) was originally scheduled to determine the planning application on 14 July 2022 but decided to defer this decision until its next meeting on 11 August 2022. Whilst the CSDG SPD was formally revoked by the Council on 25 July 2022, there is little to suggest this was the reason the PAC decided to defer its decision. The evidence on the reasons for the deferral is not conclusive. However, the application was determined soon after the decision to defer, so the delay was minimised.
5. Even if the CSDG SPD had influenced the design of the development proposal, it is not clear the Council's PAC would have reached a different decision on the application had the CSDG SPD been current at the time. Under section 38(6) of

the Planning and Compulsory Purchase Act 2004, decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. An SPD is planning guidance and a material consideration in decision making, but it cannot change development plan policy. The development plan for Croydon was the same on both occasions that Croydon's PAC met to consider the application. Therefore, there was no change to the principal policy basis for decision-making, even if guidance elaborating on that policy basis had been revoked.

6. Consequently, I am not persuaded from the evidence before me that the appeal would have been unnecessary had the delay not occurred; or that the Council acted unreasonably in deciding to defer its decision on the application. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*C Carpenter*

INSPECTOR