



Costs Decision

Site visit made on 3 July 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Costs application in relation to Appeal B Ref: APP/L5240/W/22/3312271 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 Abbas Dattoo for a full award of costs against the Council of the London Borough of Croydon.
 - The appeal was against the refusal of the Council to grant the approval required under Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the proposed addition of a single storey above the existing building comprising a single self contained flat.
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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. Examples of behaviour that may give rise to a substantive award of costs include where a local planning authority fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; or has prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant claims that the Council has acted unreasonably by determining that the proposed new storey, which has been set further back from the external walls of the building than previous proposals, would be visible from a public vantage point and would adversely affect the character and appearance of the area. Furthermore, the applicant claims that the Council has failed to take due account of Policy DM35.1 of the Croydon Local Plan (2018), which specifically identifies the appeal site as suitable for buildings of 5-storeys in height.
5. The reason for refusal and the Case Officer's report explain why the Council considered that the appeal proposal would adversely affect the character and appearance of the area. In doing so, the Council provided an objective analysis of the context and surroundings of the appeal site, and it gave adequate

reasons to substantiate the harm the appeal proposal would cause. The fact that the Council has refused 3 applications for new storeys on the appeal building is not evidence of unreasonable behaviour in the case of this appeal. Furthermore, the visuals of the appeal proposal that were submitted with the appeal, show that it would be visible from Lower Addiscombe Road and Blackhorse Lane, as identified by the Council in its reasoning.

6. The Council provided a rational explanation as to why Policy DM35.1 of the Croydon Local Plan (2018), does not provide overriding support for the appeal proposal. I have similarly found that this policy does not justify granting prior approval for the reasons given in the appeal decision.
7. Overall, I find that the appeal proposal was refused on reasonable planning grounds. Whilst a costs award does not necessarily follow the appeal decision, it is relevant in this case that the appeal was not successful.
8. Given my findings above, I consider that the applicant's time and expense in the appeal proceedings were a necessary part of the process. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

G Sylvester

INSPECTOR