

Costs Decision

Site visit made on 31 October 2023

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Costs application in relation to Appeal Ref: APP/L5240/W/23/3322248 87 Addiscombe Road, Croydon CR0 6SF

- 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 87 CR0 B 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 the conversion of basement flat to create two flats.
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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.

Procedural Matters – lack of cooperation and introducing a new reason for refusal

3. The applicant argues that the Council demonstrated a lack of co-operation due to their lack of response to an offer to make amendments during the course of the planning application now the subject of this appeal. The Council accepted a revised floor plan sent on 17 April, but I have not seen a specific response to the appellant's offer of making other amendments. That said, there is no obligation on the Council to determine a planning application based on anything other than the information originally submitted once the planning application is validated as set out in the Planning Practice Guidance (Making an application, paragraph 061, Reference ID: 14-061-20140306 - revision date 06 03 2014).
4. Whilst the engagement or otherwise with the Council's pre-application advice service is a source of much concern for the applicant, I do not have any evidence that had the service been used the outcome of the application would have been any different. Advice through a formal pre-application service or by other informal means is necessarily offered without prejudice to the outcome of any subsequent application. I have not been provided with any substantive evidence to suggest that unnecessary expense was incurred through the interactions or lack of interaction with officers prior to the decision being made.
5. I consider that a new reason for refusal was not introduced. The Council's reason for refusal for the application the subject of the current appeal refers to

outlook from the studio flat, as did the Council's reason for refusal on the previously dismissed appeal¹.

Substantive Matters – prevention of development that should have been permitted, failure to substantiate the reason for refusal, vague, generalised or inaccurate assertions and failure to consider the improvements proposed in the application.

6. In terms of the previously dismissed appeal, the Inspector considered both outlook and light as reasons for dismissing the appeal. The Inspector's decision should be read as a whole. Whilst there was discussion of particular aspects of the layout and their consequences for outlook and light, the conclusion at paragraph 13 was not specific in terms of outlook to particular rooms. The Council was entitled to come to the view that it did regarding outlook, given the Inspector acknowledged that there was a restricted outlook in more general terms, particularly to the studio flat.
7. Although I found in favour of the appellant in the appeal decision, I consider the Council exercised its planning judgement, taking into account the relevant material considerations including the previous appeal decision. The proposal the subject of this appeal was materially different to the previously dismissed scheme, and it was a matter of judgement for the Council as to whether the outlook from the studio flat in particular was acceptable.
8. The Council has substantiated the reason for refusal through the contents of its delegated report, decision notice and statement of case which all refer to the relevant development plan policies. The Council's statement of case and delegated report each refer to the additional alterations proposed as part of the appeal scheme and the evidence suggests that they were taken into account.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated and an award of costs is not warranted.

L Francis

INSPECTOR

¹ Reference APP/L5240/W/21/3288230 decision dated 9 November 2022.