



Costs Decision

Site visit made on 20 February 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2024

Costs application in relation to Appeal Ref: APP/L5240/W/23/3328194 15 & R/O 17 Wattendon Road, Kenley CR8 5LW

- 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 Lee Clemson of Mantle Developments UK 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 "Construction of 8 new homes (4 pairs of semi-detached houses) in rear garden land of 15 & 17 Wattendon Road with associated access, parking & landscape. Partial demolition of integrated garages and extensions at 15 Wattendon Road to facilitate access."
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and that behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is seeking to recover the full costs incurred in the appeal process. The applicant considers that the Council behaved unreasonably as it: prevented development which should clearly be permitted; put forward vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis; refused planning permission on a planning ground capable of being dealt with by conditions; and did not determine cases in a consistent manner.
4. The Council Officer's planning committee report (the report) set out information on the representations received and carried out a detailed analysis of the proposal. The sections titled "Height, scale, siting" and "Detailed design" discussed matters including the pattern of development, height, massing and topography and contained the proposed site plan and front sectional elevations.
5. In my view, members of the Council's planning committee (members) were entitled not to accept the professional advice of officers so long as a case could be made to the contrary. In this case, members exercised their planning judgement based on the information before them, including the report, and concluded that the proposal would fail to respect the character or appearance of the area, thereby conflicting with Policies D3, D4 and D5 of the London Plan 2021 and Policies SP4 and DM10.1 of the Croydon Local Plan 2018.

6. The Council's appeal statement provided information to support its reasons for refusal. I consider that the Council produced sufficient evidence to substantiate its case and agree with the arguments advanced by the Council in respect of the effect of the development on the character and appearance of the area.
7. The report stated that electric vehicle charging points (EVCPs) could be achieved on the site and a condition was recommended in this regard. The report indicated that the Council also sought a financial contribution towards sustainable transport initiatives and the Council's appeal statement made clear that this would contribute towards street car clubs with EVCPs, general expansion of the EVCP network and improvements to walking and cycling routes. Therefore, the contribution is not directly related to the provision of on-site EVCPs. The Council justified the requirement for a financial contribution by referring to relevant Local Plan policies and a High Court decision¹. I agree with the Council that the financial contribution is justified and meets the legal and policy tests.
8. In terms of not determining cases in a consistent manner, the applicant cites the Council's resolution to grant planning permission for a development at Fair Oak Close. However, in its costs statement the Council points to the different topography and design of the development at Fair Oak Close compared to the appeal proposal and states that each application should be considered on its merits. As can be seen from my appeal decision, I agree that there are differences between the two schemes. Therefore, it does not follow that the resolution to grant permission for development at Fair Oak Close should have automatically led to approval of the current proposal.
9. In view of all the above points, I do not consider that the Council's behaviour has been unreasonable. It thus follows that the applicant has not incurred any unnecessary expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

A Wright

INSPECTOR

¹ Whiteside v the Council of the London Borough of Croydon [2022] EWHC 3318