



Costs Decision

Site visit made on 24 October 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2024

Costs application in relation to Appeal Ref: APP/L5240/W/23/3320948 21 Tavistock Road, Croydon, CR0 2AL

- 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 Savvas Savva for a partial award of costs against the Council of the London Borough of Croydon.
 - The appeal was against the refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the prior approval application seeking to add two additional storeys to create eight additional flats - more detail within planning statement.
-

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 prepared a Unilateral Undertaking (UU) to address the transport and highways impacts of the development and submitted this as part of the application. The Council advised the applicant that they should prepare this independently. Given that a UU is a planning obligation executed solely by the party giving the covenants and not by the party having the benefits of those covenants (the Council), this does not amount to unreasonable behaviour in the appeal process.
4. The Council, in its rebuttal stated that progression on the UU, involving the Council, would have led to additional expense for the applicant, whilst the application would still have been refused. I find this to be a reasonable approach. As can be seen from my decision, I have also not sought to seek clarification on the UU given that it would not have changed my overall decision.
5. However, despite a UU being submitted at the application stage and being before the Council when it prepared its statement of case for the appeal, there is no substantive evidence presented by the Council in addressing why the UU had not been agreed. Whilst this has not helped the applicant it does not amount to failure to produce evidence to substantiate the reason for refusal on appeal. The Council clearly identified that a car free agreement is necessary in this case in order to mitigate the highways related impacts which would

otherwise arise from increased car use such as traffic, pollution and parking stress and to promote other modes of sustainable transport.

6. I also note that the Council advised the applicant by email that they were willing to engage with their solicitors to overcome this reason for refusal and secure the restriction of parking permits as part of the appeal process. The appellant acknowledges they were told that the Council would be happy to engage on formulating a legal undertaking once the planning appeal was submitted to overcome this reason for refusal. I have no evidence that this was taken up and did not progress.
7. However, In any event, as there were two reasons for refusal, the appeal could not have been avoided as the Council also refused the proposal in relation to external appearance. Furthermore the submission of a UU would have been necessary to address the transport and highway impacts irrespective of whether it was a reason for refusal.
8. Whilst I have some sympathy for the applicant in the amount of time and associated cost preparing the UU, in order to be awarded costs it must be demonstrated that the activity of the other party has been unreasonable. In my view, much of what the applicant has outlined relates to the normal production of a UU which would have been required in any event.
9. Furthermore, I have had regard to the advice contained within the PPG in respect of when an award of costs might be made against the Council and in respect of procedural¹ and substantive² awards. Although not exhaustive, I do not find that the Council's behaviour falls within the above lists within the PPG.

Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Williams

INSPECTOR

¹ Paragraph: 047 Reference ID: 16-047-20140306

² Paragraph: 049 Reference ID: 16-049-20140306