



Costs Decision

Site visit made on 14 August 2024

by S Wilkinson BA, BPI, Dip LA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2024

Costs application in relation to Appeal Ref: APP/L5240/W/23/3330552

1 - 16 Haling Grove, South Croydon, CR2 6BR

- 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 the Council of the London Borough of Croydon for a partial award of costs against Spark Property Assets LLP.
 - The appeal was against the refusal of the Council to grant planning permission for alterations and the
 - erection of single/two storey side/rear extensions and construction of an additional floor to Piplee House, Neern House and Beri House to provide an additional 6 two bedroom flats and the enlargement of the existing flats; provision of associated landscaping.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

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 Council's application is seeking a partial award of costs on procedural grounds given submission date of the Preliminary Ecological Appraisal and Bat Emergence Survey (BES). This resulted in the Council being unable to appropriately respond to this evidence at the time it submitted its statement of case.
4. The Council alleges that additional time and officer resource was involved in subsequently responding to these two documents outside the normal time frames when it had already finalised the Statement of Case. Additional costs were incurred in informing other parties of the late receipt of this information. The award is being sought in relation to the late submission of the Bat Emergence Survey (BES) only.
5. For these reasons, the Council concludes that the appellant has acted unreasonably incurring additional expense for the Council.
6. In response the appellant submits that the report should have been requested at the validation stage, and that there is some doubt as to whether the survey was actually submitted to the Inspectorate as part of the appeal submission as it appears that other submitted documents were not received. However, once it became clear that it had not been submitted it was sent in promptly on receipt of the letter from PINS dated 3 April 2024.

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7. Irrespective of the late submission a planning condition could have addressed the concerns on the protection and or mitigation for the bat habitat.

Conclusions

8. I do not have details of the Council's validation criteria which could have been used to inform the applicants of the need for a BES.
9. However, the applicant was initially informed that the BES had not been submitted on 19 December 2023 but only sent it to PINS on 3 April 2024. This was a critical gap of time and if it had been shorter could have allowed the Council to review and respond to all the appellant's evidence at one time rather than in two stages.
10. The Preliminary Ecological Assessment identifies the potential for bat roosts in parts of the buildings on the site and it follows that the Emergence Survey was required in order to inform a full appraisal of this site. Without this a condition attached to a decision to allow permission could not have been drafted in a form to meet the five tests required by the National Planning Policy Framework.
11. Although, this application only refers to the omission of a single document its late submission necessitated the Council's further consideration requiring additional time and resource in responding appropriately.
12. For this reason, I conclude that the appellant behaved unreasonably incurring unnecessary expense in the appeal process.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Spark Property Assets LLP shall pay to the Council of the London Borough of Croydon, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Spark Property Assets LLP, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Wilkinson

INSPECTOR