



Costs Decision

Site visit made on 6 January 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2025

Costs application in relation to Appeal Ref: APP/L5240/D/24/3352499 6 Twinners Road, Coulsdon, Croydon CR5 3LS

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms J Green for a full award of costs against Council of the London Borough of Croydon.
 - The appeal was against the refusal of planning permission for a loft conversion to include front and rear dormers and side rooflights.
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Decision

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

Reasons

2. Parties in planning appeals and other planning proceedings normally meet their own expenses., 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 PPG states that Councils may be at risk of an award of costs if they act unreasonably by, amongst other things:
 - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - failing to produce evidence to substantiate each reason for refusal on appeal;
 - making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - acting contrary to, or not following, well-established case law; or
 - not determining similar cases in a consistent manner.
4. Although I have dismissed the appeal based on objections from third parties, I have serious reservations about the Council's reasons for refusal, which were vague and lacked robust assessment.
5. Assessment of the impact of a proposal on local character and appearance is always to some extent subjective and arguable, but cogent analysis is still required. In this case a reference to the estate being designed without facing dormer windows was not backed up by any clear explanation as to why this would be important to local character. In its response to the costs claim, the Council stated that the houses on the estate which have dormers are normally those with larger

- and taller roofs. Again, this statement was not supported by analysis. Likewise, there was a lack of explanation of the alleged harm to be caused by the rear dormer. The houses on the estate are fairly close together, but not unusually so. The dormers would be proportionate in scale and designed to reflect others nearby.
6. Although there was no suggestion that this modestly scaled proposal would be inappropriate in the Green Belt, the Council nevertheless maintained an objection in regard to the impact on Green Belt openness. This argument failed to take into account the Appeal Court ruling in *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor* [2016] EWCA Civ 404, which confirmed that where development is found to be 'not inappropriate', it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.
 7. Whilst I do not agree with the Council's stated reasons for differentiating the appeal proposal from a similar, permitted scheme at 6 Chaplin Place nearby, I accept that there are some minor differences between the 2 sites which could reasonably lead to a different conclusion in terms of the impact on local character - though not in regard to Green Belt policy.
 8. Finally, the Council alleged that the rear dormer and a triangular area of clear glazing would be unacceptably detrimental to the amenities of the occupiers of the adjoining property by reason of their size, siting and design resulting in visual intrusion and overbearing impact. The property involved was not specified, however, leaving the appellant to speculate as to what the faulty relationship might be. The rear dormer would have some minor impact on the outlook from 16 Philand Lane, minimised by the geometry of the building, but the clear glazing would not add any volume and therefore would not have any overbearing effect.
 9. The defects I have identified in the handling of the issue of character and appearance would not in themselves be sufficient to amount to unreasonable conduct, due to the subjective nature of this issue. The Council's case here was nevertheless poorly founded. Taking this in conjunction with the apparent overlooking of established case law on Green Belt policy and the vague and highly questionable conclusions regarding neighbours' amenity, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. The appeal should not have been necessary on the basis of the Council's refusal and a full award of costs is justified.

Costs Order

10. 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 the Council of the London Borough of Croydon shall pay to Ms J Green, 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.
11. The applicant is now invited to submit to Council of the London Borough of Croydon, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Les Greenwood

INSPECTOR