



Costs Decision

Site visit made on 2 June 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st July 2025

Costs application in relation to Appeal Ref: APP/L5240/W/25/3361301 Land at The Lawns, South Norwood SE19 3TS

- 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 Crystal Palace Community Land Trust 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 construction of building for residential accommodation, together with associated car parking, cycle parking, landscaping and formation of new turning head.
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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.
3. Unreasonable behaviour on the part of a Council may include preventing or delaying development which should clearly be permitted and making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The costs application is made on the basis that the Council acted unreasonably in refusing planning permission. The applicant suggests that the Council (1) failed to work collaboratively with the applicant to resolve matters, including those relating to design, as they arose throughout the determination of the application, (2) was not willing to give the provision of affordable housing any weight in the determination of the application, and (3) included the fourth reason for refusal in its decision referring to there being no legal agreement to mitigate the transport impacts of the proposal, despite the applicant's willingness to enter into a legal agreement. The applicant additionally suggests that costs have been incurred by consultants in preparing the appeal documents, including technical reports and legal costs associated with the preparation of a draft legal agreement.
5. In relation to (1), costs can only be awarded in relation to unnecessary or wasted expense at the appeal. Therefore, even if the Council failed to engage more positively during the pre-application stage or at the time of planning application, this does not automatically justify an award of costs. Furthermore, the Council's role in the promotion and release of the site to the Community Land Trust is not a material planning consideration.

6. Moreover, refusing planning permission and not discussing the particular reasons with the applicant in advance does not on its own constitute unreasonable behaviour provided the reasons for doing so are substantiated. The Council's reasons for refusal in its decision, including the first reason relating to design, are complete, precise, specific and relevant to the planning application. Further justification for its decision was also provided within the associated Officer report.
7. In relation to (2), it is clear that there is disagreement between the main parties in terms the weight to be derived from the benefits of the delivery of community-led affordable housing scheme. The Officer report is clear and states that 'If the affordable housing was secured it would be a "benefit" which would weigh in favour of the development...the provision of a small number of affordable housing units would offer a limited benefit which would not outweigh the harm in other respects and the development would still not be acceptable in planning terms'. How the Council has chosen to weigh these factors within the planning balance is entirely a matter of planning judgement. Consequently, I do not consider the Council to have behaved unreasonably in this regard.
8. A planning application can be refused if a legal agreement is not in place, even if a draft agreement exists, because the draft is not legally binding. Therefore, in relation to (3) it was not unreasonable for the Council to impose the fourth reason for refusal, even if this was a matter that could subsequently have been addressed.

Conclusion

9. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated by the applicant. Consequently, the application for an award of costs is refused.

H Marriott

INSPECTOR