



Costs Decision

Hearing held on 9 September 2025

Site visit made on 9 September 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Costs application in relation to Appeal A Ref: APP/L5240/W/24/3341508

275 Addiscombe Road, Croydon CR0 7HY

- 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 A Datoo on behalf of Marlpark 275 CR0 Ltd for a full award of costs against the Council of the London Borough of Croydon.
 - The appeal was against the refusal of outline planning permission for demolition of existing house and buildings and erection of new three storey building with accommodation in the roof space.
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Costs application in relation to Appeal B Ref: APP/L5240/W/24/3345390

275 Addiscombe Road, Croydon CR0 7HY

- 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 A Datoo on behalf of Marlpark 275 CR0 Ltd for a full award of costs against the Council of the London Borough of Croydon.
 - The appeal was against the refusal of outline planning permission for outline consent (layout and scale only) for the demolition of existing buildings and erection of 3 storey building with accommodation in roof space comprising 9 self-contained flats.
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Costs application in relation to Appeal C Ref: APP/L5240/W/24/3352094

275 Addiscombe Road, Croydon CR0 7HY

- 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 A Datoo on behalf of Marlpark 275 CR0 Ltd for a full award of costs against the Council of the London Borough of Croydon.
 - The appeal was against the refusal of outline planning permission for outline consent (layout and scale only) for the demolition of existing buildings and erection of 3 storey building with accommodation in roof space comprising 9 self-contained flats.
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Decision

1. The application for an award of costs for Appeal A is refused.
2. The application for an award of costs for Appeal B is refused.
3. The application for an award of costs for Appeal C is refused.

Reasons

4. 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.

5. Paragraphs 047¹ and 049² of the PPG indicates that local planning authorities are at risk of an award of costs if they behave unreasonably in relation to procedural matters at the appeal or in respect to the substance of the matter under appeal.
6. Regarding Appeals A, B, and C, the applicant alleges the Council behaved unreasonably in respect of procedural and substantive matters, including: lack of co-operation with the other party or parties; 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; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead; acting contrary to, or not following, well-established case law; persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; not determining similar cases in a consistent manner; failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances; refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage; and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.

Co-operation and pre-application discussions

7. The applicant submits that the Council acted unreasonably by failing to uphold a more helpful and collaborative approach, despite the applicant inviting discussions to address and mitigate the issues of concern.
8. The applicant has submitted numerous applications for the site over an extended period, has received formal pre-application advice, and has been in regular communication with Council officers via phone and email. Notably, for the Appeal A proposal, email correspondence shows discussion between the parties on a range of matters, such as the methodology for the transport survey, specifications for cycle and refuse storage, and a range of other matters. In addition, the Council has published guidance on matters relevant to the design of the proposal³.
9. For the Appeal B proposal, the Council confirm consultation comments were sent to the applicant. Email correspondence from the Council's officer provided updates on the determination of the application. It is evident the Council had fundamental concerns with the scheme that could not be readily resolved through negotiation between the parties.
10. Regarding Appeal C, the Council described dialogue with the applicant from July to September 2024 relating to redesigning the proposed basement car park and advice from the Council's ecologist. Whilst differences of opinion remain, this does not indicate a lack of cooperation from the Council.

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

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

³ E.g. refuse capacity standards in its Waste and Recycling in Planning Policy Document 2015 (updated 2018)

11. Therefore, it is not demonstrated that the Council failed to co-operate or enter into pre-application discussions in respect of Appeals A, B, or C.

Whether prevented or delayed development which should clearly be permitted

12. For the Appeal A proposal, following submission of additional evidence, the Council withdrew its reason for refusal regarding the effect of the development on on-street parking availability. In addition, the Statement of Common Ground (SoCG) confirmed the Council no longer contests the reason for refusal in respect of cycle and refuse storage. However, the Council continued to defend the remaining reasons for refusal during the appeal, and its withdrawal of some refusal reasons does not suggest the proposal should have been permitted.
13. The applicant alleges the Appeal B and Appeal C proposals would be similar in scale to previously submitted schemes. However, as set out in my appeal decisions, the appeal proposal materially differs in scale from previous schemes.
14. In my appeal decision I concluded the Appeal C proposal would not be exempt from the Biodiversity Net Gain condition, and the proposal contains insufficient information to demonstrate the condition could be successfully discharged. Therefore, the Council's reason for refusal was justified.
15. In my decision, I found each appeal proposal, A, B, and C, would result in harms and would conflict with the development plan as a whole, with no other considerations outweighing these findings. Therefore, the Council did not prevent or delay development which should clearly be permitted, having regard to each proposal's accordance with the development plan, national policy and other material considerations.

Whether the Council failed to produce evidence to substantiate each reason for refusal, and whether reasons based on vague, generalised or inaccurate assertions and not supported by objective analysis

16. For Appeal A, the Council's concerns in respect of parking stress and the methodology utilised are clearly articulated in email correspondence with the Principal Transport Planner⁴, and therefore were communicated during the application process. Assessment of this matter is set out in the delegated report.
17. In addition, the delegated report explains that the proposed bin store would be of inadequate size for the proposed level of occupancy, which could lead to the proliferation of waste in and around the site resulting in environmental harm. The proposal did not accord with the Council's advice and guidance. The reasons for refusal are substantiated by the officer's objective analysis contained within the delegated report, and the justification is clearly stated within the reasons for refusal.
18. For Appeal B, the applicant asserts that proposed increases in height relative to a previous scheme⁵ would be de-minimis, and that basements had featured in other proposals⁶. However, it is evident the Council's reason for refusal was informed by the professional assessment of its officer, who considered the cumulative effects of the proposal on the character and appearance of the area.

⁴ Dated July 2023

⁵ LPA ref: 23/02976/OUT

⁶ Such as LPA ref: 21/05093/FUL, and appeal decision APP/L5240/W/22/3299657

19. For Appeal C, the applicant asserts the Council did not justify its view that the proposed scale of the development was unacceptable. However, the officer's assessment in the delegated report indicates the proposal would comprise uncharacteristic features that are not found in the vicinity of the site, would not respond sensitively to its topography, and the excessive scale of the building and large lightwells would conflict with the character of the area⁷.
20. Furthermore, for each appeal, it is clear from the delegated report that the officer had regard to the site's planning history in making their assessment.
21. The applicant asserts the Council's conclusions in respect of proposed planting for Appeal B is unsubstantiated by evidence. However, the officer exercised their professional judgement in concluding the proposed planting would be ineffective in mitigating harm arising from the scale of the proposal building.
22. As set out in the delegated report for Appeal B, acknowledging access is a reserved matter, the Council's concerns were in respect of the proposed site layout, namely whether it would provide a safe environment for vehicles and pedestrians. The proposal did not include details of vehicle tracking and contained insufficient information to demonstrate there would be adequate space for vehicles to pass each other on the internal route. I am satisfied that such matters are relevant to the consideration of layout, and on the basis of the submitted evidence, the Council's conclusions were reasonable.
23. Regarding the ramp access and effects on living conditions of neighbouring occupants for Appeal C, the applicant did not provide noise analysis until the appeal stage. Therefore, the Council's conclusions were based on the available evidence.
24. The Council requested a financial contribution toward sustainable transport in respect of Appeals B and C. The Council considered the contribution to be justified by Policies SP8.12 and SP8.13, and conclusions of a High Court judgement⁸. On this basis, the Council considered the planning obligation would comply with the statutory tests, justifying the reason for refusal.
25. For these reasons, I am satisfied the Council's reasons for refusal were substantiated by evidence and objective analysis.

Whether refused on grounds capable of being dealt with by conditions (Appeals A, B, and C)

26. For Appeal A, the Council considered a condition to restrict car parking permits would be ineffective as such measures would need to be enforced through a legal agreement as it impedes the actions of individuals rather than being a restriction on land or buildings. The Council considered that increasing capacity or relocation of an external bin store would have material planning implications meriting additional consultation. Following further discussions and submissions of evidence, the SoCG confirms the Council withdrew its reason for refusal in respect of these matters. However, this does not discredit the Council's conclusions in respect of the appropriateness of conditions at the time of determining the application.

⁷ E.g. paragraph 5.15

⁸ Whiteside, R. (On the Application Of) v The Council of the London Borough of Croydon [2022] EWHC 3318 (Admin) (21 December 2022)

27. For Appeal B, details of vehicle tracking could not be secured through condition for future submission, since such analysis may necessitate changes to the site layout. In my decision I concluded planting would not undermine the legibility of the proposed development, since details of landscaping would be agreed as a reserved matter. However, I have been provided no evidence that the applicant incurred wasted or unnecessary expense on the basis of the Council's conclusions.
28. The scale of noise and disturbance on neighbouring occupants were unclear to the Council since noise analysis was not supplied until the appeal stage for Appeals B and C. Therefore, there would not be sufficient certainty that such matters could be adequately mitigated through a planning condition requiring measures such as boundary treatments and screening.
29. In addition, there is insufficient certainty that the effects of the lightwells proposed by Appeal C on character and appearance could be mitigated through landscaping without undermining their function or altering the site layout.
30. In respect of Appeal C, as set out in my appeal decision, due to insufficient evidence, a condition would not provide adequate certainty that the Biodiversity Net Gain condition would be capable of being successfully discharged.
31. Consequently, the Council did not refuse Appeals A, B, and C on grounds capable of being dealt with by conditions.

Whether contrary to, or not following, well-established case law; whether similar cases determined in a consistent manner; whether the Council persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; and whether the Council failed to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances;

32. The delegated report for Appeal A concludes that due to methodological issues with the car parking survey, the Council was unconvinced the proposal would not result in harm to highway safety through parking stress in the locality. The applicant refers to an appeal decision⁹ in which the Inspector concluded that it had not been demonstrated that an unacceptable level of parking stress would be caused to the wider area and therefore concluded that the proposal would comply with the development plan in this regard. Conversely, in another appeal decision¹⁰ the absence of a mechanism to ensure no increased demand for on-street parking, the Inspector concluded the proposal did not demonstrate the development would not lead to harm to highway safety by contributing to existing parking stress.
33. Whether a proposal would not give rise to unacceptable parking stress is not an established principle of case law but reflects the circumstances of the proposal, including the local context and the quality of evidence provided. This is illustrated by the Council's withdrawal of the reason for refusal following submission of revised evidence. Therefore, it is not demonstrated the Council acted contrary to or did not follow well-established case law.
34. The applicant alleges the appeal proposals were not determined in a consistent manner with other similar cases for development of the site, suggesting the scale of

⁹ Appeal decision ref: APP/L5240/W/21/3279949

¹⁰ Appeal decision ref: APP/L5240/W/23/3330734

the appeal proposals has previously been accepted through previous schemes, or increases in scale would be non-material. However, the Council's assessment of appeal proposals A, B, and C, identified material differences in scale from other approved developments on the site.

35. For example, whilst the applicant asserts that approved developments for a new dwelling¹¹ and nine flats¹² would be greater in scale than the Appeal A proposal, as discussed in my appeal decision these schemes would have three storeys above ground and would be sited at the existing ground level. The scale of development would therefore have a materially different visual impact from permitted schemes.
36. In addition, the proposed drawings for other applications¹³ included external storage facilities, and only details of cycle and refuse storage details were to be secured by condition, rather than matters of location and scale.
37. Whilst the applicant draws comparison with the location for the main entrance in a previous scheme¹⁴, this was refused planning permission by the Council and dismissed at appeal¹⁵ and does not positively endorse the location of the entrance. Furthermore, other approved schemes on the site do not include the car park ramp access, as proposed in Appeals B and C.
38. There are material planning differences between the appeal proposal and other permitted schemes at the site, and the evidence before me does not suggest inconsistency in the Council's determination of applications.

Whether approval of reserved matters refused when the objections relate to issues that should already have been considered at the outline stage

39. Appeal proposals A, B, and C seek outline planning permission, and therefore matters of reserved matters approval are not applicable to the appeal proposals.

Conclusions

40. As set out in my appeal decision, I have identified harms resulting in conflict with the development plan, leading to the dismissal of each appeal proposal. Therefore, the appeals could not have been avoided.
41. Moreover, whilst I have reached different conclusions from the Council in respect of some main issues, the evidence submitted in the costs applications for Appeals A, B, and C does not demonstrate that the Council behaved unreasonably and caused the applicant to incur unnecessary or wasted expense in the appeal process.
42. Therefore, in respect of Appeal A, Appeal B, and Appeal C, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and award of costs is not warranted.

E Dade

INSPECTOR

¹¹ LPA ref: 22/03222/FUL

¹² LPA ref: 23/02976/OUT

¹³ LPA refs: 19/04985/FUL, 22/03222/FUL and 23/02976/OUT

¹⁴ LPA ref: 21/05093/FUL

¹⁵ Appeal decision ref: APP/L5240/W/22/3299657