



Costs Decision

Site visit made on 14 May 2026

by SJ Desai BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2026

Costs application in relation to Appeal Ref: 3375945

Land and buildings rear of 1-7 Gresham Road, South Norwood, Croydon SE25 5JS

- 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 Mr Seamus Gannon of TS Portfolio Ltd 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 demolition of existing garages and the construction of semi-detached houses.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. 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 awards may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal. This application is made on both substantive and procedural grounds. The applicant contends that the Council acted unreasonably in both procedural and substantive respects by relying upon vague and unsupported assertions concerning character, appearance and residential amenity, by failing to properly engage with the technical evidence submitted and during the application process by refusing planning permission on matters said to have been capable of resolution through planning conditions or a legal agreement.
4. In relation to the first reason for refusal concerning character and appearance, I am satisfied that the Council undertook a sufficiently detailed and policy-based assessment of the proposal against the relevant provisions of the development plan, including Policies D3 and D4 of the London Plan (2021) and Policies SP4 and DM10 of the Croydon Local Plan (2018). The officer's report demonstrates that consideration was given to matters including the site layout, scale and massing, relationship with surrounding development and architectural expression.
5. The applicant argues that the Council's concerns relied upon subjective terminology such as 'cramped' and 'overdevelopment' without accompanying quantitative analysis or comparative assessment. However, determinative factors relating to character and appearance are largely subjective and inevitably involve a degree of professional and contextual planning judgement rather than reliance

upon specific metrics. In this case, the Council identified concerns relating to the intensity of development, the relationship of it to surrounding development and the resulting effect on the prevailing character. That the applicant reached a different conclusion to the Council does not demonstrate the Council acted unreasonably in reaching its judgement. Moreover, in my appeal decision I similarly identified conflicts with the development plan in respect of the effect of the proposal on the character and appearance of the area.

6. Turning to the second refusal reason, the applicant contends that the Council failed to provide objective evidence demonstrating unacceptable impacts upon the living conditions of neighbouring occupiers, particularly given the submitted daylight and sunlight assessment demonstrated compliance with BRE guidance.
7. The Council accepted the proposal would not give rise to unacceptable impacts in terms of daylight and sunlight. Nevertheless, BRE guidance principally addresses measurable daylight and sunlight effects and does not comprehensively assess matters such as outlook, which are inherently more qualitative in nature. In this case, the Council was entitled to distinguish between acceptable technical daylight impacts and harmful effects arising from the scale, positioning and relationship of the proposed built form to neighbouring occupiers. In my appeal decision, I similarly found that the proposal would result in a significantly harmful impact in this regard.
8. In respect of privacy, the applicant further contends that any concerns did not adequately take account of separation distances, proposed obscure glazing or other forms of mitigation capable of being secured by condition. In my appeal decision, I found that the proposal, as submitted, would not give rise to a harmful loss of privacy for neighbouring occupiers. Therefore, it was not necessary for me to consider whether additional conditions would be required to overcome such harm. Nevertheless, the Council was entitled to reach its own planning judgement on this matter. It explained why, in its view, the proposal would result in a harmful loss of privacy and why obscure glazing or fixed-shut conditions to habitable room windows would not have represented an appropriate or satisfactory solution to that identified harm. The Council was entitled to consider not only whether overlooking could technically be reduced, but also whether reliance upon such mitigation would itself lead to an unsatisfactory form of accommodation. Although I reached a different conclusion on the privacy issue, it was not unreasonable for the Council to take an alternative view.
9. In relation to the third reason for refusal, the applicant contends that the requested sustainable transport contribution, car club provision and parking permit restrictions were unnecessary and disproportionate having regard to the modest scale of the development. Further, the applicant argues that the Council failed to properly acknowledge a draft unilateral undertaking submitted during the application determination process.
10. The evidence indicates that the Council identified the requirement for sustainable transport measures and parking controls in accordance with adopted development plan policies relating to sustainable transport. While the parties disagree regarding the necessity and proportionality of the obligations sought, in my judgement taking into consideration all of the submissions, I am satisfied the measures and an obligation are necessary. The reason for refusal clearly stated that the concern arose from the absence of a completed legal agreement. Although a draft unilateral undertaking was submitted during the application process, it was neither finalised

nor executed prior to determination, such that no mechanism existed to secure the obligations sought. In those circumstances, the Council was entitled to determine the application on the basis of the information before it at the time.

11. In any event, even if the third reason for refusal had not been pursued, the appeal would still have been dismissed on the substantive grounds relating to character and appearance and neighbouring living conditions. The matters that would have been secured by the planning obligation were required to mitigate the effects of the appeal scheme and would not have had a determinative effect in the overall planning balance. Consequently, it has not been demonstrated that any unnecessary or wasted expense materially arose from the Council's position concerning the planning obligation.
12. The applicant also refers to the existence of other developments within the wider area which are said to exhibit similar characteristics to the appeal proposal. However, limited evidence has been provided regarding the specific circumstances, site context, relationship to neighbouring properties, or decision-making rationale associated with those developments. Each planning application must be determined on its own individual merits, and I am unable to conclude that they represent directly comparable examples such that the Council acted inconsistently or unreasonably in this case.
13. The applicant also contends that the Council failed to engage constructively during the application process. While positive engagement between parties is generally encouraged, there is no requirement that the Council must seek amendments or negotiate revisions in every case before reaching a decision. The Council notes that no pre-application engagement took place and that the applicant elected to proceed directly to submission. I am not provided with any substantive evidence that the fundamental objections in respect of character and appearance and living conditions could have been resolved within the scope of the submitted scheme, or that the Council engaging positively or proactively in the decision-making process would have resulted in an acceptable scheme.
14. The applicant has also referred to a separate cost's decision elsewhere within the Borough. However, insufficient detail has been provided to demonstrate that the circumstances of that case are materially comparable to those before me. Consequently, it has not been determinative in my assessment.
15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, so an award of costs is not warranted.

SJ Desai

INSPECTOR