
Costs Decision

Site visit made on 20 September 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 September 2016

Costs application in relation to Appeal Ref: APP/B1930/D/16/3155079 18 Batchwood Drive, St Albans, Hertfordshire AL3 5SB

- 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 Miss Dawn Watkins for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for part single, part two storey rear extension with roof lights and single storey side extension.
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Decision

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

Reasons

2. The national Planning Practice Guidance (PPG) advises in paragraphs 29 and 30 that, irrespective of the outcome of the appeal, costs may only 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 applicant submits that the Council has acted unreasonably on four grounds with regards to paragraph 49 of the PPG. Ground 1 states that the Council has prevented development which should clearly have been permitted having regard to its accordance with the development plan, national policy and other material considerations, while Ground 3 states that the Council made inaccurate assertions about the impact of the development.
 4. The proposed development conflicted with Policy 72(ix) of the St Albans District Local Plan Review 1994 in terms of the intrusion of the first floor rear extension into a 45 degree visibility zone of the neighbour's patio doors at No 20. In this instance, the Council considered that this would result in harm to the neighbour's living conditions. While I have allowed the appeal on the basis that the harm would not be unacceptable, the Council was entitled to form a contrasting decision based on Policy 72(ix), national policy and its assessment of the site circumstances. As such, the Council did not prevent development which should clearly have been permitted and did not make inaccurate assertions. Therefore, the Council has not behaved unreasonably on Grounds 1 or 3.
 5. Ground 2 states that the Council has failed to produce substantive evidence to substantiate the reason for refusal. I consider that the officer report was lacking in its explanation as to why the development would be detrimental to the living conditions of occupiers at the neighbouring property. However,
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Paragraph 49 of the PPG refers to local planning authorities producing evidence, rather than substantive evidence, to substantiate reasons for refusal. It was possible to understand from the report that the intrusion into the 45 degree visibility zone was the reason for refusing planning permission. Therefore, the Council produced evidence to substantiate its reason for refusal and has not behaved unreasonably on Ground 2.

6. Ground 4 states that the Council has not determined similar cases in a consistent manner. The applicant refers to the grant of planning permission for a similar development at 26 Batchwood Drive. From the information submitted with the grounds of appeal, it would appear that the two cases are not as similar as the applicant claims. In the case of No 26, the adjoining property at No 28 has a single storey rear extension of similar depth to the extension granted permission at No 26. As a consequence, there would be no intrusion into the 45 degree visibility zone of a neighbour's ground floor window or conflict with Policy 72(ix). The Council has not been inconsistent as the cases are not similar and therefore it has not acted unreasonably on Ground 4.
7. For the reasons set out above, I cannot agree that the Council has acted unreasonably in this case. As such, the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Tom Gilbert-Wooldridge

INSPECTOR