
Costs Decision

Site visit made on 31 January 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 17th February 2017

Costs application in relation to Appeal Ref: APP/B1930/D/16/3165479 41 Church Street, St Albans, Hertfordshire, AL3 5NG

- 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 Ms Sophia Hermens for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of the Council to grant planning permission for a single storey rear extension, and new rooflights to front elevation (amended scheme).
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Decision

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

Reasons

2. 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 appellant submits that the Council has acted unreasonably in that it has failed to produce evidence to substantiate its reasons for refusal, and has offered only vague assertions about the proposal's impact.
 4. The first reason for refusal identifies the unsympathetic form of the extension as being harmful to the locally listed building and the wider conservation area. However, the Delegated Report does not describe any particular aspect of the design which it considers to be harmful. Nor does it articulate why the proposal is unsympathetic to the host dwelling, or how the significance of the host property or wider conservation area would be harmed. Instead, this section of the Delegated Report focuses on describing the policies and guidance which it considers have not been complied with.
 5. The second reason for refusal states that the proposal would result in an overbearing impact and loss of light to the neighbouring occupiers at No 43. In particular, the Decision Notice and Delegated Report cite the effect on a window to No 43 that is in "close proximity". However, on my site visit it was apparent that there are no ground floor rear windows that would be directly affected by the development. Moreover, whilst the Delegated report identifies a conflict with Policy 72 regarding the depth of the extension, it does not identify any other harm that would arise from this.
 6. PPG lists examples of the behaviour that may give rise to a substantive award of costs against a local planning authority. These include: "failure to produce
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evidence to substantiate each reason for refusal on appeal”, and “vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis”. In this case, the Council has provided no analysis to substantiate its first reason for refusal. With regard to the second reason for refusal, the alleged impact on the occupiers of No 43 has simply not been substantiated.

7. The relevance or status of the policies cited by the Council has not been disputed by the appellant. However, this does not absolve the Council of the need to explain its reasons for refusing planning permission. In this case, unnecessary costs were incurred in pursuing the appeal, and an award of costs in these specific respects is justified.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 St Albans City & District Council shall pay to Ms Sophia Hermens, 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.
10. The applicant is now invited to submit to St Albans City & District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Thomas Hatfield

INSPECTOR