
Costs Decision

Site visit made on 4 April 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 05 May 2017

Costs application in relation to Appeal Ref: APP/B1930/W/16/3165542 Land rear of 15 Old Watford Road, Bricket Wood AL2 3RS

- 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 I O'Conner for a partial award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for conversion of existing garage and workshop to a one-bedroom dwelling.
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Decision

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

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 appellant's application for an award of partial costs is based on the unnecessary or wasted time and expense in rebutting Refusal Reason 2 on the Council's Decision notice in the appeal process. The appellant states that the Council was unreasonable within the terms described in the PPG, that states that a substantive awards of costs may be made where "*there is a failure to produce evidence to substantiate each of reason for refusal on appeal*"¹ and "*there are vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis*"².
4. In response to the appellant's costs application, the Council acknowledges that error was made by including this reason for refusal. The Council has accepted that the Refusal Reason 2 as worded was not sustainable and has withdrawn this reason for refusal in respect of this proposal.
5. In light of my assessment of the evidence before me, I share the appellant's view that the Refusal Reason 2 had not been adequately substantiated by the Council in its officer's report nor accurately assessed how the siting, height and bulk of the converted garage and workshop would adversely impact on living conditions of the neighbouring properties on Reynards Way.

¹ Bullet Point Two - Paragraph 049 Reference ID: 16-049-20140306

² Bullet Point Three - Paragraph 049 Reference ID: 16-049-20140306

6. It will be seen for the reasons set out in my appeal decision, I concur with the Council on Refusal Reason 1 that there were sufficient grounds relating to the harm caused by the proposed development to the character and appearance of the area. I came to that decision based on my consideration of the details and merits of the development, having regard to all the evidence and other matters raised. However, I consider that the Council have failed under the terms of the PPG as described above with regard to Refusal Reason 2.
7. Whilst I note the Council's comments that the additional costs in preparing this application and the argument in the appellant's appeal statement would be relatively minor, the appellant nonetheless was formally represented at the appeal stage and was faced with unnecessary expense in preparing the arguments for this reason for refusal.
8. For the reasons explained above, I am of the view that the appellant has incurred unnecessary and wasted expense. As a result, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial 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 the St Albans City & District Council shall pay to Mr I O'Conner 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.

David Troy

INSPECTOR