
Costs Decision

Site visit made on 4 April 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 5 June 2017

Costs application in relation to Appeal Ref: APP/B1930/W/16/3162505 33E Clarence Road, St Albans, Hertfordshire AL1 4NP

- 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 Craig Bourne for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for the demolition of existing 2 x one bed semi-detached bungalows and redevelopment of the site to provide a five bed detached house, with car parking and new access from Clarence Road.
-

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises 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 PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations or fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
 4. The Appellant submits that the Council acted unreasonably in that the development was not contrary to Policy 10 of the City and District of St Albans District Local Plan Review (1994) (LP), gave weight to an alternative scheme which was approved in 2007, have not determined applications in a consistent manner, refused to have pre-application discussions, and unnecessarily required an arboricultural report.
 5. In respect of Policy 10 of the LP, I have found in my appeal decision that this is a relevant policy in the determination of the application as it does not just relate to the loss of residential units to non-residential uses. Consequently assessing the application against the criterion in Policy 10 was the correct approach to take.
 6. The Council agreed that they could not demonstrate a five year supply of housing. They also considered the tilted balance required by paragraph 14 of
-

- the National Planning Policy Framework. However, as I found in my decision, whilst Policy 10 must be considered to be out of date, its purpose is to ensure that existing housing is not lost by a reduction in the amount of the existing housing stock. Thus, Policy 10 is still in broad accordance with the Framework.
7. The previous planning permission for the redevelopment expired without implementation, and this is referred to by the Council in their Officers report. However, reference to this historic permission is not stated to be a significant factor in considering whether the development would be contrary to Policy 10. This is also reflected in the Council's appeal statement where it is stated that the amount of weight that can be attached to historic permissions is limited.
 8. Turning to whether the Council have determined applications in a consistent manner, two other applications have been cited - a certificate of lawful development¹ and an application which involved the reduction of the number of residential units proposed². The determination of the application for a certificate of lawful development was essentially a legal decision which confirmed that the specified development would not, require planning permission. This is a significantly different type of application to the appeal scheme.
 9. In relation to the other application I note that this would result in the reduction of the number of residential units proposed. From the limited evidence before me, I am not aware of how many residential units were on that site prior to that development commencing. It seems to me that the revised proposal was a reduction in the number of proposed units as opposed to the loss of a residential unit. Therefore, both of these applications related to materially different proposals and I consider that the Council have not acted inconsistently in the determination of any of these schemes when compared to the appeal development.
 10. The Council charge for pre-application advice and such charges aim to recover the costs of providing the service. From the information before me, the Council had two informal meetings with the Appellant prior to the request for a final meeting, all of which was prior to the submission of the application. Whilst I am not aware of whether the suggested cost of £900 for the meeting would exceed the cost of providing the service, pre-application advice and discussions are nevertheless a discretionary, but beneficial, element of the planning process. In that sense, I consider that the Council have not acted unreasonably.
 11. Finally, in respect of the need for an arboricultural report, it is noted that the development included works within proximity to several trees, including ones protected by a Tree Preservation Order. It is noted that the arboricultural report provided details of tree protection measures and additional methodology for building works beyond what was outlined in the Design and Access Statement.
 12. Whilst I have found in favour of the Appellant on this matter in my decision, in this case I am satisfied that there was a need for such a report to be able to come to an informed decision on this issue.

¹ 5/2015/2793

² 5/2014/2164

Conclusion

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and therefore an award of costs is not justified.

Chris Forrett

INSPECTOR