
Costs Decision

Site visit made on 18 February 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2020

Costs application in relation to Appeal Ref: APP/B1930/W/19/3241792 117 Hatfield Road, St Albans AL1 4JS

- 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 Lionel Wallace for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for change of use of first floor office space to Class C3 (residential), extension and alterations to roof with dormer windows and rooflights and part single, part two storey side and rear extension with habitable roofspace to create additional five flats and alterations to openings.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party where it has behaved unreasonably and this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The applicant's costs application is based on concerns that the Council failed to determine the planning application within the statutory time period; the reasons for refusal in the decision notice did not reflect communications with the Council; the daylight impact indicated by the Council could have been established during the 2 site visits that were carried out, and no request for additional information was made; the Council failed to give appropriate weight to a previous planning permission on the site; and, inaccuracies with the drawings could have been corrected during the planning application and this was only raised in the decision notice.
4. The planning application was determined by the Council after the statutory 8-week period and it has provided little explanation for the delay. I appreciate the sense of frustration that this may cause the applicant.
5. Nonetheless, Section 78 of the Town and Country Planning Act 1990 provides that an applicant may appeal if the Council has not given notice of its decision on the application within the statutory period. I note that the Council determined the application on 27 September 2019 and that it was not the delay in the Council's decision that compelled the applicant to appeal the decision. Therefore, whilst the Council's delay in determining the planning

application is unfortunate, there is no substantive evidence before me that this caused the applicant unnecessary or wasted expense in the appeal process. The applicant has referred to damages in relation to a property sale/purchase, however the costs regime cannot compensate for any consequential losses as a result of any delays.

6. The evidence before me suggests that the Council had not been particularly proactive in dealing with the planning application and the reasons for refusal did not reflect prior communications between the parties. In these respects, there were shortcomings in the Council's behaviour.
7. The Council could have raised concerns about the proposed development and highlighted the need for additional information, such as a daylight and sunlight appraisal, during its assessment of the planning application. However, there is no guarantee that had additional information been provided in advance of the Council's decision this would have overcome the Council's concerns.
8. It is not disputed that the drawings submitted with the planning application contained inaccuracies. Whilst it would have been helpful if the Council had drawn this to the applicant's attention during the planning application, ultimately it is the applicant's responsibility to ensure that accurate drawings are provided with a planning application in order for it to be assessed fully.
9. I acknowledge that the Council previously granted planning permission at the appeal site (Ref 5/16/1795), which was subsequently amended by application Ref 5/17/3156, for development including a roof extension with side dormers to the rear outrigger. Whilst a previous planning permission is capable of being a material planning consideration, as I note in my decision, the current appeal scheme would be bulkier than the previous approval by virtue of the mansard roof with steeper roof pitches. Moreover, the previous approval did not include the part 2 storey, part single storey extension which is shown in the current appeal scheme. As such, the appeal scheme would be materially different to the previous approval. I therefore find no inconsistency in the manner in which the Council determined the planning application.
10. The Council's officer report and appeal statement sets out clear reasons for its decision on the planning application. As can be seen from my appeal decision, I agree with the Council that there were sufficient grounds for refusing planning permission relating to the effect of the proposed development on the living conditions of the occupiers of No 115A Hatfield Road.
11. Taking the above into account, I conclude that whilst there were shortcomings in the Council's handling of the planning application, this has not directly caused unnecessary or wasted expense for the applicant in the appeal process.

Conclusion

12. For the reasons given above, I determine that the costs application should fail and no award is made.

C Osgathorp

INSPECTOR