



Costs Decision

Site visit made on 16 September 2020

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Costs application in relation to Appeal Ref: APP/B1930/W/20/3252157 20 Penny Croft, Harpenden, AL5 2PB

- 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 Lenzie and Mrs Beckles for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for the erection of a new 5 bed dwelling following demolition of the existing, and associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where:
 - a party has behaved unreasonably; and
 - the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG clarifies that unreasonable behaviour may either be procedural or substantive. Although an application for costs may relate to events before the appeal, the PPG states that costs unrelated to the appeal are not eligible for an award.
4. The application for costs by the appellant is based on substantive grounds in that it alleges the Council acted unreasonably in; - (1) not following the professional advice of officers; and (2) Planning Committee initially resolving to approve the application before reversing this decision at a subsequent meeting.
5. In accordance with section 38(6) of the 2004 Act¹ and section 70(2) of the 1990 Act, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point of decision-making is therefore plan-led.
6. The PPG states that where a local planning authority has exercised their duty to determine planning applications in a reasonable manner, it should not be liable for an award of costs. It also states that where a planning application has been refused for a proposal that is not in accordance with development plan policy,

¹ Planning and Compulsory Purchase Act 2004

- and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application.
7. Although consistency is an important consideration in planning, Councillors are not obliged to follow the recommendations of officers on the provision that they give sound and justifiable reasons for doing so. In this respect, it will be seen from the appeal decision that whilst I concluded that the scheme did not conflict with development plan and national policy in respect of its impact on the living conditions of neighbours, I am satisfied that it did conflict with development plan and national policy on design grounds and that this was adequately substantiated by the Council in its reason for refusal and supporting appeal statement. Furthermore, despite me disagreeing with the Council's position in terms of the scheme's impact on the living conditions of No 18 Penny Croft, I am satisfied that it was not unreasonable to have formed the conclusion it did given the proximity of the development to this property and consider its reason on the decision notice to have been adequately substantiated in the appeal statement.
 8. In view of the above, I have no evidence that Committee ignored the advice of officers on the above matters or that the decision was not appropriately substantiated and do not as a consequence consider the Council to have behaved unreasonably in this respect.
 9. I sympathise with the appellant's frustration over the Council having to rerun the Planning Committee which took place on 24 February 2020 owing to it not being advertised correctly, and the subsequent change in resolution at the second meeting on 23 March 2020 despite there being no corresponding change in circumstances. However, a decision notice had not been issued following the first committee and as such, planning permission had not yet been formally granted. Set against this context, it is worth noting that there is no legal obligation for Members to follow the resolution of a previous meeting, but in any event, I have noted that unlike the first Committee, the occupier of No 18 verbally addressed the second meeting, and I do not consider it unreasonable of Members to have formed a new conclusion on the back of this. Furthermore, whilst the need to rerun the Committee is to be regretted, I do not find the length of time the appellant had to wait to be so substantial as to constitute unreasonable behaviour.
 10. In view of the above, I conclude that the application for costs on substantive grounds fails.
 11. Given my conclusions on the allegation of unreasonable behaviour, the matter of unnecessary or wasted expense does not need to be considered.

Conclusion

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

Robert Fallon

INSPECTOR