



Costs Decision

Site visit made on 28 January 2021

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Costs application in relation to Appeal Ref: APP/B1930/D/20/3262618 45 Marshals Drive, St Albans AL1 4RD

- 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 and Mrs J Foley for a partial award of costs against St Albans City and District Council.
 - The appeal was against the refusal of planning permission for a part single, part two storey rear extension, an extension to the existing front porch, an extension of a loft conversion to habitable accommodation with front and rear dormer window, 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 advises that parties in planning appeals should normally meet their own expenses. However, it continues 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. At ID: 16-047-20140306 and 16-049-20140306 it provides examples of types of behaviour that may give rise to an award of costs against a local planning authority. These include providing information that is shown to be manifestly inaccurate or untrue; providing vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; and not determining similar cases in a consistent manner.
4. The Council's decision notice alleged that the occupiers of an 'adjacent dwellinghouse' would be harmed as a result of an overbearing impact. Identifying this property by its house number would have been clearer. However, as the decision set out that the property was 'adjacent' and at a 'lower ground level', there can be little doubt that the Council was referring to 47 Marshals Drive ('No 47'). That conclusion is also clear from reading the Council's Committee report, particularly its paragraph 8.4.14.
5. The appellants commissioned and submitted a Daylight and Outlook Report ('DOR') as part of this proposal in order to seek to address the single reason for refusal of a previous application Ref: 5/2020/0553 ('previous scheme'). In refusing the appeal scheme members clearly considered, on the basis of this additional evidence, that the concern that the development could result in an unacceptable loss of light had been addressed.

6. Nevertheless, on the matter of planning judgement relating to the potential impact on the outlook from No 47, members reached a different conclusion from their officers and from the view expressed in the DOR.
7. However, in my view, the reason for refusal adequately identified the harm that members considered the scheme would cause, with reference to the depth and siting of the proposed single storey extension, and the additional impact of differing ground levels. The decision also set out the alleged conflict with a relevant development plan policy dealing with residential extensions.
8. Consequently, whilst I have reached a different conclusion from the Council in my appeal decision, I do not consider its decision to be unsubstantiated, vague, or so perverse that no reasonable person could have reached it.
9. I note that the precise wording of the reason for refusal in the appeal scheme differs from the previous scheme, despite the two proposals being identical, with the former omitting the word 'dominating', but still referring to an 'overbearing' effect.
10. However, that difference is slight, and to my mind, the words 'dominating' and 'overbearing' are broadly similar in their meaning, and the Council's concern on this matter in both decisions was therefore very much the same. This minor difference in the precise wording of the two decisions does not therefore amount to a failure to determine similar cases in a consistent manner.
11. For all the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Chris Couper

INSPECTOR