
Costs Decision

Site visit made on 9 March 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 18th March 2021

Costs application in relation to Appeal Ref: APP/C1950/D/20/3264253 8 Elmoor Close, Welwyn AL6 9PF

- 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. S. Critchlow for a full award of costs against Welwyn Hatfield Borough Council.
 - The appeal was against the refusal of planning permission for removal of existing chimney and raising of existing ridge height to facilitate loft conversion, including erection of rear dormer with 2 x rear facing Juliette balconies and insertion of 3 x front facing roof lights.
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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. It adds that examples of unreasonable behaviour by local planning authorities include acting contrary to, or not following, well-established case law and failure to produce evidence to substantiate each reason for refusal on appeal.
4. The site benefits from an extant permission which was referred to in the Council's report. The scheme subject of the extant permission is materially different to that subject of this appeal, and while it was not expressly referred to in the 'main issues' section of the Council's report, since the extant permission was referenced elsewhere in the document, I consider that the Council had adequate regard to it. As such, the Council has not behaved unreasonably in this regard.
5. I note that the Highway Authority had not been consulted upon. Notwithstanding this, given the particular location of the site at the end of a turning head and adjacent to other properties with driveways, the Council had reasonable concerns which were clearly articulated in their report. As such, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. As such, in any event, the appeal has not resulted in unnecessary expense in the appeal process.

6. While the Council's report makes a reference to minimum numbers of parking spaces, elsewhere in the report the Council refers to maximums as stated in the Welwyn Hatfield District Plan Review Supplementary Planning Guidance Parking Standards Adopted January 2004 (SPG). As such, I am satisfied that the reference to a minimum requirement is an error. In addition, while I note the age of the SPG and the evidence regarding parking stress and alternative means of transport, given the proposed number of bedrooms, and the location of the site, the Council did not behave unreasonably by following the SPG as guidance.
7. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of Welwyn Hatfield District Plan Adopted 2005 that the proposal would be in conflict with, in the view of the Council.
8. Accordingly, I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

Conclusion

9. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR