
Costs Decision

Site visit made on 10 August 2021

by S J Lee BA(Hons) MA MRPTI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2021

Costs application in relation to Appeal Ref: APP/B1930/W/20/3264119 17 Woodstock Road North, St Albans AL1 4QB

- 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 Mrs Forster 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 detached dwelling, garage and shed and construction of two semi-detached dwellings with new access arrangements.
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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 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 applicant asserts that the Council acted unreasonably by not following correct procedures, particularly in relation to providing clear reasons why Members took an alternative view to their officers. In addition, it is asserted that the decision is based on vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. While Members are not required to accept the advice of its professional officers, if a different conclusion is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence substantiating that reasoning. It is open to Members to exercise their own planning judgement, but any such case must be fully justified in the face of opposing evidence.
5. The Council's statement sets out the Council's case in terms of their concerns about the impact of development on the character and appearance of the area. It also sets out its comments on the appellant's case and considers issues around the 'tilted balance'. While the applicant may disagree with the findings of the Council and consider their arguments to be unjustified, these are all effectively matters of planning judgement. The Members were entitled to disagree with their officers about these factors.
6. The evidence put forward was sufficient for me to be able to understand and consider the Council's case in full. Moreover, I do not consider it unreasonable

for the Members to have concluded they had insufficient information to be certain of the development's impact or that the relative width of the plots was such that there would be harm. It is not unusual for proposals of this scale to turn on concerns about one particular aspect of a proposal. While I have disagreed with the Council's conclusions, I do not consider this to constitute unreasonable behaviour.

7. It is more concerning that the stated reason for refusal does not set out the Council's concerns more clearly. This suggests that it is the 'principle' of replacing a single house with a semi-detached pair which concerns the Council. However, the Council's statement clearly covers issues which go beyond purely matters of principle and into the detailed impacts and issues of the detail of the submission. Nevertheless, while the reason for refusal could have been more elegantly expressed, it still refers to the impact on the street scene. This ensures that the broad scope of the Council's concerns could be understood. These were expanded on in the Council's appeal statement and the appellant had an opportunity to respond. On this basis, I am also not persuaded that this amounts to unreasonable behaviour.
8. The Council's minutes, which were provided by the applicant, do not provide any evidence of discussions that took place at the planning meeting. On this basis, it would have been difficult for the applicant to understand all of the Council's concerns prior to the submission of the appeal statement. It is also not possible to know with any certainty what discussions took place during the meeting and whether matters such as Paragraph 11d of the National Planning Policy Framework were considered.
9. However, even if I were to conclude this amounted to unreasonable behaviour, there is nothing to suggest that the decision would have been different. On this basis, the appeal and any costs associated with it, would still have been necessary. To make an award of costs there must be both unreasonable behaviour *and* unnecessary or wasted expense. I am not persuaded by what I have seen that an award is justified in this context.
10. Finally, matters raised relating to pre-application advice are outside the scope of this application, which relates only to the appeal process. As such, whether advice was requested, or the applicant's experience of such advice, have had no bearing on this decision.
11. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S J Lee

INSPECTOR