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## Costs Decision

Site visit made on 23 November 2021

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 December 2021**

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### **Costs application in relation to Appeal Ref: APP/B1930/W/21/3280346 Land Rear Of Nos 8-10 Prospect Road, St Albans AL1 2AX**

- 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 Peter Kane for a full award of costs against St Albans City Council.
  - The appeal was against the refusal of planning permission for the erection of 3 detached houses on land rear of Nos 8-10, formation of new access to side of No 10, and associated landscaping and car parking.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and so caused the costs applicant to incur unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in terms of (i) ignoring the advice of its officers, (ii) failing to substantiate its refusal reasons, (iii) providing a vague and poorly composed refusal reason, (iv) not determining similar cases in a consistent manner, and (v) refusing planning permission for development which clearly should have been allowed.
3. The decision to refuse planning permission was made by the Council's Planning Committee against the advice of its officers. A report prepared by officers was put before the Planning Committee and there is no evidence to suggest that this was ignored by its members.
4. The Council is not duty bound to follow its officers' advice in the determination of a planning application. However, it has to clearly demonstrate on planning grounds why a proposal is unacceptable and properly substantiate its reasons.
5. The Council's refusal reasons succinctly set out its concerns with the proposal. They refer to development plan policies, so demonstrating that a proper approach to assessing the scheme has been adopted. The appeal statement further explains the Council's objections with reference to the development's context and its effects on the historic and visual significance of the conservation area. Therefore, the Council has substantiated its refusal reasons and put forward a fair case for dismissing the appeal.
6. The refusal reason includes an error where it states the harm arising would not outweigh the benefits of the proposal. This is an unfortunate mistake but the

evidence suggests that it has not caused any confusion to the appellant on the Council's position. Even if that was the case, it has not been shown how this has resulted in any unnecessary work or expense.

7. The Council has previously allowed a similar housing scheme. However, its refusal reasons relate to a significant difference between the approved scheme and the current appeal proposal in terms of the extent of land affected. As such, it is not inconsistent of the Council to object to the current proposal, despite the previous planning permission it has issued.
8. For the reasons set out in my appeal decision, I have arrived at a different view to the Council on the development's effect on designated and non-designated heritage assets. However, an assessment on such issues is to a significant degree an issue of planning judgment. As such, the Council was entitled to arrive at its decision and it has not prevented development that clearly should have been granted planning permission.
9. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. An award of costs is not justified.

*Jonathan Edwards*

INSPECTOR