



Costs Decision

Site visit made on 14 December 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2022

Costs application in relation to Appeal Ref: APP/B1930/W/21/3274283 17 Hazelmere Road, St Albans, AL4 9RU

- 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 David Norris for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for development described as "Outline Application (access sought) Extension and redevelopment of existing detached dwelling to create two semi-detached dwellings, 1 no. 4-bed with a new vehicular access and 1 no. 3-bedroom using the existing access."
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Decision

1. The application for an award of costs against St Albans City & District Council is allowed in full.

Reasons

2. The national Planning Practice Guidance advises that costs may be awarded where a party to an appeal has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include it making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, and not determining similar cases in a consistent manner.
4. The applicant contends that in refusing planning permission the Council failed to consider the implications of overturning its officers' recommendation of approval to the planning committee. They further argue that the Council refused permission on the grounds of harm from the principle of development where no such harm would exist in this urban environment, incorrectly assessed the proposed development as being cramped and providing insufficient amenity space, failed to objectively assess the visual impact of the proposed development and did not consider its benefits in determining the application. The applicant also claims that the committee failed to take account of similar developments in similar areas of St Albans, including housing developments providing less amenity space than notionally required.
5. The Council responds that the record of the committee's reasoning is set out in detail in the minutes of the meeting. It advises that members are entitled to reach a different conclusion to officers, and that they are aware of the circumstances of other development. The members of the committee

considered the benefits of housing provision as part of their determination of the application. The committee found that the garden spaces provided with the proposed house would fail to meet the Council's standard for a house of this size. The more intensive use of the site would fail to relate to the existing character and appearance of the street scene. The Council further notes that the applicant did not take advantage of its pre-application advice service.

6. The minutes of the planning committee's discussion of the application the subject of this appeal are not before me in evidence. The Council refers to these and the webcast of the committee meeting being available on its website, but it is their responsibility to provide evidence in support of their case. The applicant's appeal statement included a detailed review of the committee's discussion of the application, and the Council has not disputed the overall accuracy of that review.
7. From that evidence, it is not clear that the committee carried out an objective analysis of the proposed development. While the members of the committee are entitled to reach a different decision to their officers, this must be justified. It is not clear that the committee members recognised that the appearance, layout, scale and landscaping of the proposed development all fell to be considered as reserved matters.
8. I note that the officers' report acknowledges the Council's shortfall in housing land, and the attendant presumption in favour of sustainable development in line with paragraph 11(d) of the National Planning Policy Framework. However, there is no evidence of any discussion of this point by the committee, or of their addressing the balance between any harm arising from the proposed development and the benefits that it would deliver.
9. While applicants are encouraged to undertake pre-application discussions with the Council before submitting proposals, this is not mandatory. There is no guarantee that pre-application discussions would have resulted in a scheme more acceptable to the committee, given that officers recommended approval.

Conclusion

10. I therefore find that the council has demonstrated unreasonable behaviour in refusing outline planning permission, and that this has resulted in unnecessary and wasted expense on the part of the applicant.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that St Albans City & District Council shall pay to Mr David Norris the costs of the appeal proceedings described in the heading of this decision.
12. The Applicant is now invited to submit to St Albans City & District Council, who have also been sent a copy of this decision, details of those costs with a view to reaching agreement as to the amount. If the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.

M Chalk

INSPECTOR