
Costs Decisions

Site visit made on 21 September 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 October 2022

Costs application A in relation to Appeal Ref: APP/B1930/W/21/3289821 Hunters Lodge, 17 Gustard Wood, Wheathampstead AL4 8RP

- 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 & Mrs Tierney for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for a two storey front extension.
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Costs application B in relation to Appeal Ref: APP/B1930/Y/21/3285266 Hunters Lodge, 17 Gustard Wood, Wheathampstead AL4 8RP

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Tierney for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of listed building consent for a two storey front extension.
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Decisions

1. Both applications for costs are refused.

Procedural Matter

2. This costs decision letter deals with applications for cost for two schemes which, respectively, sought planning permission and listed building consent on one site. I have dealt with both in this single letter so that it comprises two decisions.

Reasons

3. The national Planning Practice Guidance (the Guidance) 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.
4. Put simply, the Applicant considers that the Council acted unreasonably by relying on an out-of-date policy position; that it relied on vague, generalised or inaccurate assertions about the size and impact of the proposed extension; that similar schemes were not considered in a consistent manner; and that the refusal of planning permission did not contain a reason for refusal which delayed its processing at appeal.

5. The Applicant has also set out the amount they seek were they successful: however that is a matter for the parties, or failing agreement, the Courts. I have not taken this specific aspect into account.
6. With regard to Planning Policy, I acknowledge the Applicant's point that the development plan, the *St Albans District Local Plan Review* dating from 1994, is at the older end of the date spectrum for local plans. Nonetheless, the essence of Policies 1 and 13 reflect the spirit of national policy for Green Belts expressed in the *National Planning Policy Framework*. It is clear from the reason for refusal, officer report and Council's statement that these policies were at the heart of decision making on this issue.
7. Indeed, the need to consider the impact of proposals as to whether they are inappropriate development in the Green Belt, their impact on openness and on the aims of the Green Belt remain the central pillars of Green Belt policy. Accordingly, I do not find that the Council acted unreasonably by relying upon adopted local and national Green Belt policy.
8. Furthermore, the Council undertook an objective assessment of the size of the proposed extension. It found that there would be an increase of 40.8% excluding earlier extensions and adding earlier extensions would amount to a 59% increase. Looked at either way, this would represent a significant increase in the size of the building.
9. Moreover, it is important to note that working out whether a proposal represents 'a disproportionate addition' is not merely a mathematical equation, but a consideration of the proposal *in toto*. Having done so, the Council found that the proposal would not fall into one of the exceptions set out in the Framework and would therefore represent inappropriate development in the Green Belt, and then had regard of other considerations. In doing so, I find that the Council did not act unreasonably.
10. With regard to other schemes, my attention is drawn to a permission granted at Bowersby under ref 5/2021/2241 relating to the erection of a new dwelling to replace existing outbuildings. However, it is plain that this relates to a different type of proposal to that in this case with different considerations, even if it occurs within the Green Belt. With each proposal considered on its own merits, and given the differences in this example, I do not find that this represents unreasonable behaviour by the local planning authority.
11. Lastly, I note the confusion over the lack of reason(s) for refusal being given on the issued decision notice refusing planning permission. The reason for this omission has not been given by the Council, and it is not within my gift to rectify it. Section 35 of *The Town and Country Planning (Development Management Procedure) (England) Order 2015* (DMPO) sets out that where planning permission is refused, the notice must state clearly and precisely the full reasons for the refusal. The omission in this instance, even by fault of a simple administrative, typographical or computer system error, is unreasonable.
12. Yet the decision notice does not sit in isolation. It sets out that planning permission is refused (without giving reasons) and even a cursory look at the officer report details why the scheme is considered unacceptable. At the appeal stage, whereby both the scheme for planning permission and listed

building consent travelled together, the Council provided detailed statements setting out its concerns.

13. It was evident that permission had been refused, and the Council substantiated its reason for doing so through the appeal process for both planning permission and listed building consent. In practice, this means that the Applicant would have had to produced the various documents submitted, which is a normal part of the appeals process. I do not, therefore, find that the unreasonable behaviour caused by the omission of reasons for refusal for planning permission has resulted in unnecessary or wasted expense in this case.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Both applications for costs are refused.

C Parker

INSPECTOR