



Costs Decision

Site visit made on 10 October 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

Costs application in relation to APP/B1930/D/23/3327438 60 Oster Street, St Albans, Hertfordshire, AL3 5JL

- 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 N Ryan for a full award of costs against St Albans City & District Council.
 - The appeal was against the refusal of planning permission for loft conversion with front rooflights, hip to gable and rear dormer (resubmission following refusal 5/2022/1392).
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Decision

1. The application for a full 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. The PPG makes it clear that a Local Planning Authority (LPA) is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The appeal followed the refusal of permission on 19 May 2023 for an application made on 23 February 2023 for a loft conversion with front rooflights, hip to gable and rear dormer (resubmission following refusal 5/2022/1392). There was a single reason for refusal which was concerned with the impact of the proposals upon the Locally Listed Building and Conservation Area. My decision, which accompanies this costs decision, agreed with the LPA's decision, and dismissed the appeal. The appellant's application for a full award of costs is made on the basis that they consider the LPA's decision making to be inconsistent as a result of failure to take account of other approvals, with particular reference to one within the same terraced row.
4. The LPA's report, though it does not name it specifically as 56 Oster Street (no.56), does acknowledge that there had been recent approval of a rear dormer on the terrace that the appeal site is part of. I find that the LPA did, therefore, take into account the presence of this dormer (and dormer windows existing within the vicinity of the site) within their overall assessment but concluded that, aside from this example, the roofscape of the terraced row is uniform and largely unaltered. The level of assessment could potentially have been improved, given the proximity of the dormer window in question, and its inclusion in the appellant's documents, but overall, I find that it was taken into account as a material consideration in the determination of the proposal.

5. I acknowledge that there was no explanation as to the approval of the proposal at no. 56 as a nearby comparison to the appeal proposal before me, however, similarly within the appeal documents before me no copy of the delegated report for no. 56 has been submitted. Such document would assist in understanding the assessment for that proposal, and overall approach from the LPA, to understand any inconsistencies as claimed.
6. In a similar vein the then applicant did submit a number of examples of other dormer window approvals as a list. Whilst the LPA did not go through these at length, or on a case-by-case basis, I do not find that approvals in a much wider area would have overruled the requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area in exercising planning functions. Ultimately each case should be considered on its own merits against the Local Plan and taking into account the host dwelling and site context each time.
7. Even if the LPA had taken a more robust approach to consideration of, and made specific response to, the examples listed by the appellant I do not find, on this occasion, that it would have resulted in a different outcome - the proposal would still be at appeal. The refusal reason was largely based upon impact to the Locally Listed Building itself which, in turn, would not enhance the character of the Conservation Area. The refusal reason was clear that by reason of its proportions, design and bulk, together with the use of a flat roof design, would appear as a bulky, dominant and out of scale addition to the Locally Listed Building...and would fail to respect the character of the host dwelling.
8. The above point was, I find, supported by a sufficiently robust assessment as to set back, set in, symmetry and overall relationship with the host dwelling itself as well as overall design within the context of the host dwelling. Such matters were considered in the context of Local Plan policies seeking to ensure that dormer windows do not dominate the roof and are overall appropriately designed for the host dwelling and its surroundings.
9. I find that there was reasonable basis for the stance with regard to the application of the relevant policies which were utilised for the refusal reason. It can be seen from my decision that I agreed with the LPA and that there were sufficient grounds to refuse the appeal as a result of my findings for the refusal reason. As a result, it reasonably follows that I cannot agree the LPA has acted unreasonably in this case, nor has their behaviour resulted in unnecessary cost coming to appeal or that the actual refusal given by the LPA was unreasonable.

Conclusion

10. I do not therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and a full award of costs is unjustified.

Eleni Randle

INSPECTOR