



Costs Decision

Site visit made on 7 November 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Costs application in relation to Appeal Ref: APP/B1930/W/23/3318561 Little Bushes, Sleafshyde, Smallford, St Albans, Hertfordshire AL4 0SE

- 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 Jenny Stayton for an award of costs against St Albans City and District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and outbuildings, the construction of a new dwelling incorporating a residential annexe, changes to the existing access and the removal and pollarding of trees.
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Decision

1. The application for an award of costs is partially allowed.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. Unreasonable behaviour can relate to procedural matters (the process) or substantive matters (relating to the issues arising from the merits of the appeal).
3. In respect of bats and bat roosts, no additional surveys or reports were submitted in support of the appeal than were before the Council when the application was determined. However, following the submission of its statement of case and having considered the bat activity survey report, the Council indicated that it no longer wished to defend the third reason for refusal of the application, suggesting instead that the matter could be addressed by the imposition of a suitably worded condition.
4. Given that the relevant evidence in respect of this matter was before the Council at the application stage, the subsequent and late withdrawal of the third reason for refusal constitutes unreasonable behaviour on behalf of the Council. Notwithstanding that the withdrawal of this reason for refusal was prior to the applicant's submission of final comments, the Council's behaviour still led the applicant to incur some unnecessary and wasted expenses at the appeal stage, associated with challenging this reason for refusal.
5. Within the officer report prepared in respect of the application, it was indicated that the proposal would breach the BRE sunlight and daylight guidance. Although the related reason for refusal made specific reference to an overbearing impact, it also indicated that the proposed development would

have an adverse impact on living conditions of the occupiers of the neighbouring property. As part of the appeal documentation, a daylight and sunlight study was provided by the applicant. This study indicated that the proposed scheme would not breach BRE guidance in respect of daylight and sunlight. In taking into account the additional evidence supplied at appeal, the Council was not unreasonable in not pursuing an objection related to daylight and sunlight.

6. I have found in favour of the appellant's case in respect of limited infill within villages in the Green Belt. Having regard to the evidence before them, the Council reached an alternative conclusion in respect of this matter. However, given the proximity and similarities between the proposals subject of this appeal and the development subject of the dismissed Ard Maca appeal, the Council did not display unreasonable behaviour in deeming that there was no need to consider the proposal against the exception at paragraph 154 e. of the Framework.

Conclusion

7. For the reasons given I find that unreasonable behaviour, resulting in unnecessary and wasted expense during the appeal process has been demonstrated, and that a partial award of costs is justified.

Costs Order

8. 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 and District Council shall pay to Mrs Jenny Stayton, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of the third reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to St Albans City and District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

V Simpson

INSPECTOR