



Costs Decisions

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2024

Costs application in relation to Appeal A Ref: APP/B1930/X/22/3304125 2 Princess Diana Drive, St Albans, Hertfordshire AL4 0DF

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Shashi Rathod for a full award of costs against St Albans City Council.
 - The appeal was against the refusal of a certificate of lawful use or development for a rear extension 4m from the rear elevation of a detached dwelling.
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Costs application in relation to Appeal B Ref: APP/B1930/X/22/3304128 2 Princess Diana Drive, St Albans, Hertfordshire AL4 0DF

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Shashi Rathod for a full award of costs against St Albans City Council.
 - The appeal was against the refusal of a certificate of lawful use or development for a rear dormer to facilitate a loft conversion.
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Costs application in relation to Appeal C Ref: APP/B1930/X/22/3304130 2 Princess Diana Drive, St Albans, Hertfordshire AL4 0DF

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Shashi Rathod for a full award of costs against St Albans City Council.
 - The appeal was against the refusal of a certificate of lawful use or development for a side extension to a detached dwelling to include double garage, and extending 4m beyond the rear building line.
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Decisions

1. The applications for an award of costs for both Appeal A and B are allowed in the terms set out below.
2. The application for an award of costs for Appeal C is refused.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises¹ 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. The PPG explains² that local planning authorities (LPA) are at risk of an award of costs if they behave unreasonably with respect to the substance of the

¹ Paragraph: 030 Reference ID: 16-030-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals.

5. The main thrust of the applicant's costs claim is that the Council's error in refusing the applications directly led to unnecessary appeals and associated wasted expense. The Council refused all three applications by virtue of an alleged conflict with condition 9 of outline planning permission 5/93/1922 which removed permitted development rights for any enlargement of the dwelling or any building or enclosure within the site curtilage. As can be seen from my appeal decisions this turned out to be an error, and in fact the dwelling was constructed pursuant to planning permission 5/97/0258 which did not contain the same condition removing permitted development rights.
6. Whilst I acknowledge the Council's acceptance of this error, it nevertheless resulted in Appeals A and B being made which were unnecessary and related to proposed developments which should clearly have been permitted. In these circumstances, in relation to both Appeals A and B, I find that the applicant has been put to the unnecessary cost of an appeal to obtain a certificate of lawful use or development.
7. The proposed side extension to include double garage which is the subject of Appeal C was refused by the Council for the same reason as Appeals A and B. However, condition 3 of planning permission 5/97/0258 effectively removed permitted development rights at the appeal property for the erection of a building for the accommodation of motor vehicles. Consequently, even in the event that the Council had not erroneously referenced 5/93/1922, it is apparent that the Council would have still refused the application due to condition 3 of 5/97/0258. As a result, it is highly likely that an appeal would not have been avoided and, therefore, the Council's error has not resulted in unnecessary or wasted expense.
8. The applicant has provided a breakdown of various costs which he considers have been incurred as a direct result of the appeals. The Council however consider that many of these costs are not eligible as they do not relate to the appeal process. In any case, the amount of any award is not for me to determine. Details of how this should be settled in the event of a dispute are set out below.

Conclusion

9. For the above reasons, I find that in relation to Appeals A and B unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has occurred and that a full award of costs is justified.
10. With regards to Appeal C, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

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 Council shall pay Mr Shashi Rathod the costs of the appeal proceedings in respect of both Appeals A and B as described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to the 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.

David Jones

INSPECTOR