
Costs Decision

Site visit made on 29 December 2016

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 April 2017

Costs application in relation to Appeal Ref: APP/J3720/Y/16/3155969 Manor Lodge, Sheep Street, Shipston-on-Stour CV36 4AF

- 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 Jeremy Pragnell for a full award of costs against Stratford on Avon District Council.
 - The appeal was against the refusal of the Council to grant listed building consent for alterations and extension to curtilage listed garage for the conversion to a two bedroom dwelling. New shed and new bin/bicycle store.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice 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.
3. In addition to the appeal against the refusal of listed building consent referred to in the heading above, there is a related appeal applying to a refusal of planning permission. The terms of the application for costs refer to a partial award of costs but specify that the application relates only to the refusal of listed building consent. I have therefore treated this as a full application for costs in relation to the appeal against the refusal of listed building consent.
4. The applicant set out in paragraph 27 of his appeal statement that the Council's reason for refusing listed building consent was related to the Council's decision to refuse planning permission, that the Council had not identified harm to the listed building and had erred in law.
5. The Planning Practice Guidance sets out examples of types of behaviour which may give rise to a substantive award against a local planning authority. These examples include failure to provide evidence to substantiate each reason for refusal and acting contrary to or not following well established case law.
6. The Council's reason for refusal did not relate to or explain why the proposal failed to preserve the building or its setting or any features of historic interest. In its statement, the Council accepted the comments made by the applicant in paragraph 27¹ of his statement and indeed they quote Section 16(2) of the

¹ Referred to by the Council as paragraph 26 of the appeal statement but it is reasonable to assume this was intended to refer to paragraph 27.

Planning (Listed Buildings and Conservation Areas) Act 1990 which states that "in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". The Council also draw attention to the reason for refusal making no reference to objections to the proposed works.

7. The Council acknowledge that the reason for refusing the listed building consent cannot be substantiated and that its decision was flawed. In response to the application for costs, the Council refer to the majority of the applicant's appeal statement relating to the refusal of planning permission and suggest little time would have been spent in relation to the refusal of listed building consent. However, the amount of costs incurred is not a matter for this decision. It is clear that the refusal of listed building consent was not well founded and the Council behaved unreasonably in this regard. The applicant has been put to unnecessary and wasted expense in making the appeal against the refusal of listed building consent.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stratford on Avon District Council shall pay to Mr Jeremy Pragnell, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Stratford on Avon 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.

J E Tempest

INSPECTOR