The Planning Inspectorate

Costs Decision

Site visit made on 18 July 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 3rd August 2017

Costs application in relation to Appeal Ref: APP/N1920/W/17/3172751
14 Sparrows Herne, Bushey, WD23 1FU

- 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 John Marsh for a full award of costs against Hertsmere Borough Council.
- The appeal was against the refusal of planning permission for single storey rear extension and associated internal alterations.

Costs application in relation to Appeal Ref: APP/N1920/Y/3172780
14 Sparrows Herne, Bushey, WD23 1FU

- 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 John Marsh for a full award of costs against Hertsmere Borough Council.
- The appeal was against the refusal of listed building consent for single storey rear extension and associated internal alterations.

Decision

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

Preliminary Matter

2. The Council was provided an opportunity to respond to the application for costs. Upon the second request for a response from the Inspectorate, the Council confirmed that it had *'nothing further to say'* in this respect.

Reasons

3. The application for costs was made and responded to in the context of the national *Planning Practice Guidance* (the Guidance). The Guidance, advises that costs may only be awarded against a party who has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process. One of the aims of the costs regime, is to encourage local authorities to exercise their development management responsibilities properly, refusing permission only when the reasons will stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delays[1].

[1] The Guidance, Paragraph: 028 Reference ID: 16-028-20140306 Revision Date 06-03-2014

4. Put simply, the Council refused both planning permission and listed building consent on the grounds of the proposed design and the loss of an historic wall. It decided not to submit a statement of case, instead relying upon officer reports. However, these do not contain any detailed explanation as to why the design proposed would be harmful to the significance of the listed building as a designated heritage asset.

5. Indeed, there is no assessment of what the significance of the listed building is or even any reference to assessing the special architectural or historical interest of the building or its setting as set out in the statutory duties under Sections 16(2) and 66(1) of the PLBCA. This is a procedural requirement that, in the interests of proper planning and heritage protection, should be undertaken.

6. In the absence of such information, it is unclear as to why the proposal was unacceptable to the Council, beyond an unjustified objection to the design. In the absence of any detailed assessment, which one would expect at the very least to be not dissimilar to that set out in the statutory duties imposed by the PLBCA, I find that the Council has unacted unreasonably.

7. What is more, had the Council undertaken a considered assessment of the proposal, and explained why it took issue with the proposed flat roof design, size of openings and the loss of a late 20th Century wall, then this would have provided some reasoning for the decision it took.

8. Instead, the applicant had to commission their own consultants and undertake sizeable work in order to justify, in their view, the acceptability of their proposal. This would have been made harder by the inability of the Council to substantiate their stated reasons for refusal.

9. In this respect, I find that the unreasonable behaviour of the Council led to the appellant having to pursue an appeal which may have been reasonably avoided if the reasons for refusal were substantiated.

10. 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, relating to the whole appeal process for the applicant, is justified in this case.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972, Schedule 6 of the Town and Country Planning Act 1990 as amended and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hertsmere Borough Council shall pay to Mr John Marsh, 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.

12. The applicant is now invited to submit to Hertsmere Borough 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.

Cullum J A Parker

INSPECTOR