
Costs Decision

Site visit made on 21 July 2020

by Paul Thompson DipTRP MAUD MRTPI

an inspector appointed by the Secretary of State

Decision date: 5th August 2020

Costs application in relation to Appeal Ref: APP/V0510/Y/20/3250430 Old White Horse, 13 Church Street, Isleham CB7 5RX

- 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 Mrs H Farr for a full award of costs against East Cambridgeshire District Council.
 - The appeal was against the refusal of listed building consent for replacement of existing rear conservatory.
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Decision

1. The application for an award of costs is refused.

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. The applicant submits that the Council has acted unreasonably in that it refused planning permission on grounds that lack clarity and make inaccurate assertions about the proposal's impact. Moreover, it is their contention that the Council incorrectly identified the existing conservatory as being of timber construction and then went on to suggest that the proposal would be constructed of brown PVCu.
4. In my decision, I set out that it was apparent that the Council had previously approved the use of brown PVCu in the construction of the existing conservatory. This would also have been clearly evident to the Council when assessing the proposal. There was also no doubt that the application for listed building consent proposed that the replacement conservatory was to be constructed of white PVCu¹.
5. The refusal of listed building consent by advancing inaccurate assertions about the proposal's impact therefore constitutes unreasonable behaviour by the Council during the procedure leading up to the appeal, contrary to the basic guidance in the National Planning Policy Framework and the PPG.
6. The applicant has also suggested that the Council has failed to produce evidence to substantiate its reason for refusal on appeal. Although the Officer Report is somewhat brief in its assessment of the proposed works,

¹ The proposed materials of construction were listed in the Application Form and in the Design, Access & Heritage Statement.

it nevertheless arrives at a conclusion that it would not be sympathetic to the original dwelling. Furthermore, during the appeal process the Council provided a timely and comprehensive explanation, through its Statement of Case and separate response from the Conservation Officer, as to why it considered the proposal to be unacceptable.

7. I accept that the Council may have unnecessarily confused matters in respect of their assessment of the existing and proposed conservatories, but it can be seen from my decision that I have come to a similar conclusion to that set out by the Council, that the proposal would be harmful and therefore, in refusing the application as it did, the Council has not acted unreasonably. With this in mind, the Council did not prevent or delay works which should have been consented.
8. I turn then to the matter of unnecessary or wasted expense. In lodging the appeal, and in responding to the Council's case, the applicant had to respond to the Council's assessment of the existing and proposed conservatories, but that response is straightforward and has involved little additional assessment, or indeed anything beyond a short rebuttal within other comments made on the Council's position. It appears to me that, in reality, there has been so little extra work, as a result of the appeal, that it can be regarded as 'de minimis'. In fact, the applicant quickly and succinctly responded to the Council's case without wasting expenditure.
9. As a result, although I find that the Council acted unreasonably in its handling of the planning application, it has not caused unnecessary or wasted expense. Therefore, an award of costs is not justified.

Paul Thompson

INSPECTOR