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## Costs Decisions

Site visit made on 1 September 2020

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 October 2020**

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### **Costs application in relation to Appeal A Ref: APP/H0738/W/20/3253008 Staypleton House, Parsons Walk, Norton, Stockton-on-Tees Borough TS20 1TZ**

- 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 Stuart Dick, SD Print/Design for a full or partial award of costs against Stockton-on-Tees Borough Council.
  - The appeal was against the refusal of planning permission described as 'demolition of existing linked garage/store; erection of a two-storey side/rear extension; new flue & installation of three conservation rooflights to rear (east) roof slope; with alterations to door & windows to sides (resubmission of 19/1411/FUL & 19/1412/LBC).'
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### **Costs application in relation to Appeal B Ref: APP/H0738/Y/20/3253009 Staypleton House, Parsons Walk, Norton, Stockton-on-Tees Borough TS20 1TZ**

- 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 Stuart Dick, SD Print/Design for a full or partial award of costs against Stockton-on-Tees Borough Council.
  - The appeal was against the refusal of listed building consent described as 'demolition of existing linked garage/store; erection of a two-storey side/rear extension; new flue & installation of three conservation rooflights to rear (east) roof slope; with alterations to door & windows to sides (resubmission of 19/1411/FUL & 19/1412/LBC).'
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### **Decision – Both Applications**

1. The applications for the full or partial award of costs for Appeal A and Appeal B are refused.

### **Procedural Matters**

2. The two applications concern the same scheme under different, complementary legislation. I have dealt with both applications together within a single decision letter.
3. The applicant has not confirmed whether the applications are for a full or a partial award of costs. I have therefore determined the applications on the basis that they are for either.

### **Reasons**

4. The National Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of an appeal, 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<sup>1</sup>.

5. The applicant submits that it was unreasonable for the Council to refuse planning permission and listed building consent for the proposal in 2020 when a very similar scheme was granted listed building consent in 2008<sup>2</sup>; and, that the Council failed to apply its policies objectively, flexibly and pragmatically for the proposal under the two different consent regimes.
6. The Guidance confirms that a local planning authority is at risk of an award of costs if it fails to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances; or, if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis<sup>3</sup>.
7. Whilst listed building consent was granted in 2008 for a similar proposal, this could not reasonably be considered to be a 'recently expired permission'. In addition, even though the relevant statutory duties contained within the Planning (Listed Buildings and Conservation Areas) Act 1990 have not changed since the previous consent, during the last 12 years there have been significant and material changes to the national and local policy context within which development and works are assessed and determined. Namely, the publication of the National Planning Policy Framework in 2012 (latest revision in 2019); and the adoption of the Stockton-on-Tees Borough Council Local Plan in 2019. Given these changes, I do not consider it unreasonable of the Council to have reached different decisions to that made in 2008.
8. Furthermore, when assessing the proposal under the two regimes for planning permission and listed building consent, the Council objectively evaluated the applications, having regard to its statutory duties under the Act, the relevant policies within its development plan and the relevant guidance within the Framework. It adequately reasoned and substantiated its reason for refusal for each application in the officer reports and decision notices and demonstrated on planning grounds why the proposal was unacceptable. Thus, I find that the Council did not act unreasonably in these regards.
9. Accordingly, I consider that the Council did not behave unreasonably in its assessment and determination of the applications for planning permission and listed building consent. As such, there can be no question that the applicant incurred unnecessary or wasted expense in the appeal process.

### **Conclusion – Both Applications**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated, and thus an award of full or partial costs is not justified.

*F Cullen*

INSPECTOR

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<sup>1</sup> National Planning Practice Guidance, Paragraph: 030 Reference ID: 16-030-20140306.

<sup>2</sup> Application Ref: 08/0681/LBC.

<sup>3</sup> National Planning Practice Guidance, Paragraph: 049 Reference ID: 16-049-20140306.