
Costs Decisions

Hearing held 24 November 2020

Site visit made on 25 November 2020

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

Costs application A in relation to Appeal Ref: APP/J3720/W/20/3252701 8 Mill Cottage, Henley Road, Great Alne B49 6HX

- 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 Stratford-on-Avon District Council for a full award of costs against Mrs Sarah Robson.
 - The hearing was in connection with an appeal against the refusal of planning permission for a single storey side garden room extension.
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Costs application B in relation to Appeal Ref: APP/J3720/Y/20/3252702 8 Mill Cottage, Henley Road, Great Alne B49 6HX

- 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 Stratford-on-Avon District Council for a full award of costs against Mrs Sarah Robson.
 - The hearing was in connection with an appeal against the refusal to grant listed building consent for a single storey side garden room extension and conservation roof light to rear.
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Decision - Application A

1. The application for costs is refused.

Decision - Application B

2. The application for costs is refused.

Procedural Matter

3. Both applications relate to the same scheme under different but complimentary legislation, I have therefore dealt with them together in my reasoning.

The submissions for Stratford-on-Avon District Council

4. The applications by the Council were made verbally and supported in writing at the hearing. In summary, it is submitted that the appellant has behaved unreasonably and caused the Council to incur unnecessary and wasted expense by preparing appeal documentation and attendance at the hearing.
5. The main substance of the Council's claim is that an appeal relating to an almost identical scheme was dismissed in June 2020¹ and circumstances have

¹ Appeal Decision APP/J3720/Y/19/3243012

not changed since that time. Furthermore, it is alleged the appellant failed to produce the necessary statement of common ground by the required deadline meaning the Council had to spend time preparing one and subsequently agreeing it with the appellant. Moreover, it is alleged the appeals could have been dealt with by way of written representations and further unnecessary and wasted expense has been caused by requesting the appeals be decided by a hearing.

The response of the appellant

6. The appellant was given time to consider a response to the claims. In summary, it was explained that the appeal schemes follow previously refused schemes. However, it was only possible to appeal against the Council's decision on the listed building consent due to the expiration of the relevant time period to appeal against the refusal of the planning application. Therefore, the appeal decided in June 2020 was for listed building consent only.
7. The appeal determined in June 2020 was decided by written representations and it was orally indicated that the appellant did not feel able through that procedure to articulate the scheme as fully as they would have wished particularly the need for the proposals. This was felt important as requests for meetings with the Council on the appeal schemes and those previously refused had been consistently declined.
8. The current appeals relate to planning permission and listed building consent. Furthermore, since the appeal decision in June 2020, the appellant has become aware of another appeal decision relating to the Old Post office² nearby which in the appellant's view is relevant to and weighs in favour of the appeal schemes.
9. Moreover, the appellant confirms that their own statement of common ground was submitted before the deadline and whilst the Council's version was agreed through numerous exchanges of email, this was a necessity and done as efficiently as possible.

Reasons

10. The Planning Practice Guidance (PPG) 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.
11. The garden room proposed in the June 2020 appeal decision is identical to that which formed the subject of the appeal schemes before me. However, even though I have not found in the appellant's favour the appeal decision relating to the Old Post Office, is also concerned with a single storey extension to a grade II listed building in use as a dwelling on the same road nearby. Whilst I have found it not to be directly comparable, it is clearly a relevant consideration. Even though that decision was made prior to the June 2020 decision it is not explicitly referred to in it. Thus, it was reasonable for the appellant to consider that the appeal decision relating to the Old Post Office is a material change in circumstances.

² Appeal Decision APP/J3720/W/19/3223132

12. It was the Council's choice to spend time producing a statement of common ground they could have contacted the appellant to ask when such would be available before doing the work themselves and irrespective of who prepared it, agreeing it and the associated correspondence is simply part of the process.
13. Moreover, the appellant was entitled to request a hearing. Although queried, the request for the listed building consent appeal hearing cannot be denied and it was efficient to consider both appeals together. The appellant's reasons for requesting a hearing was based on, among other things, wanting to have the opportunity to explain their need and the need locally for living accommodation in the form that would be created if the appeals were allowed. This was relevant to the appeals and the associated discussion was beneficial to my decisions. Thus, I find the appellant acted reasonably in this regard.
14. Consequently, I find the appellant has acted reasonably in requesting a hearing, preparing the necessary evidence and participation in the appeals. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not therefore been demonstrated and an award of costs is not therefore justified.

L Fleming

INSPECTOR