



Costs Decision

Site visit made on 9 November 2021

by J Dowling BA(Hons) MPhil MRTPI

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

Decision date: 3rd December 2021

Costs application in relation to Appeal Ref: APP/Y3615/Y/21/3268679 Vine Cottage, The Street, Effingham, Nr. Guildford, Surrey KT24 5QL

- 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 Perry Stock for a full award of costs against Guildford Borough Council.
 - The appeal was against the refusal of listed building consent for the replacement of existing (unlisted) garage in the grounds of a listed (grade 2) building with a usable sized garage and home office, to a high thermally insulated standard.
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Decision

1. This application for costs is dismissed.

Procedural Decision

2. The Appellant did not state on the application form whether they were applying for a full or partial award of costs. Based on the evidence submitted I have considered the appeal on the basis that the Appellant is seeking a full award of costs.

Reasons

3. National Planning Practice Guidance (the Guidance) advises that costs may be awarded against a party who has acted unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeals process. Claims can be procedural – relating to process; or substantive – relating to issues arising from the merits of the appeal.
4. The Guidance further sets out that the parties in planning appeals and other planning proceedings should meet their own expenses. Additionally, the Guidance is clear that an application for costs will need to demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
5. The application for costs has been made by the Appellant as they consider that the Council has acted unreasonably by refusing listed building consent (LBC) and as a result, they have had to go to the that unnecessary expense of appealing. The Appellant considers that the unreasonable behaviour has arisen as the Council's decision was based on an earlier refusal of consent where the Appellant advocates that the Council misinterpreted the design and materials. They consider that the decision that the proposed replacement garage would be too big is not quantified and that the appeal process has been hindered by the Council declining to discuss the application or agree a set of points before the appeal was submitted.

6. I accept that the previous planning history of a property is a consideration when determining any new application. However, the Officer's reports sets out the differences between the 2018 application and the application that is the subject of this appeal. I am therefore satisfied that whilst the previous refusal was one element that was considered by the Council when determining the application, the application was considered on its merits and was refused on the basis of a full understanding of the current design and materials.
7. I recognise that consideration of planning and listed building applications often involves matters of judgement which at times can be finely balanced. Vine Cottage is a listed building and located within a conservation area. Given the statutory duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention should be paid to the desirability of preserving a listed building or its setting (section 16(2)) and to preserving or enhancing the character and appearance of a conservation area (section 72(1)) I do not consider it unreasonable for the Council where the issues are finely balanced, to give substantial weight to these matters. Whilst they did not provide a numeric explanation as to why they considered that the proposed building would be too big, I am satisfied that the Council have exercised their planning judgement and provided a clear and reasoned argument as to why they consider that the proposal would be harmful to the setting of Vine Cottage and the appearance of the area. Furthermore, these reasons are supported by relevant reference to the Act and the Framework.
8. The Planning Portal recommends applicants hold discussions with the local planning authority prior to submitting an appeal because it may be possible that changes could be made to address a reason for refusal and a new application could be submitted which would then avoid the need to appeal.
9. Whilst it would have been preferable for the Council to discuss the matter with the Appellant prior to him submitting the appeal the reason for refusal and the Officer's report clearly set out their concerns. As a result, I see no reason why the Appellant, should they have wanted to, could not have submitted a revised scheme which would have addressed the reasons for refusal without the need to discuss the matter with the Council. As a result, I do not consider that the Council have acted unreasonably.
10. I note that the Appellant did submit a draft statement of agreed facts but that this was not signed by the Council. Whilst an agreed statement of common ground regarding the key issues of contention can be useful to enable both parties to concentrate upon the key issues to be considered during the appeal, I do not consider that in this case the absence of one has hindered the determination of the appeal nor was it unreasonable for the Council to rely on the information contained within the Officer's report. As a result, I do not consider that this has given rise to unnecessary or wasted expense.
11. Consequently, I conclude therefore that unreasonable behaviour resulting in unnecessary or wasted expense as described by the Guidance has not been demonstrated. Accordingly, this application for costs fails.

Jo Dowling

INSPECTOR