
Costs Decision

Site visit made on 1 March 2022

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Appeal Refs: Appeal A - APP/J3720/W/21/3275225 & Appeal B - APP/J3720/W/21/3275228

The Grange Stables, Tysoe Road, Radway DV35 0UE

- 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 Mrs Granger for a full award of costs against Stratford upon Avon.
 - The appeals were against the refusal of the Council to grant planning permission and listed building consent for Demolition of conservatory, erection of extensions and fenestration changes.
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Decision

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

Reasons

2. Paragraph 030¹ of the *National Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Paragraph 046² of the PPG states that awards against councils may be either procedural, for example by failing to comply with the requirements and deadlines of the process, or substantive, which might be refusing or failing to determine an application.
3. PPG also states that if it is clear that a council will fail to determine an application within the time limits, it should give the applicant a proper explanation, and should set out why permission would not have been granted had the application been determined within the relevant period.
4. The applicant argues that representations from two statutory consultees, the parish council and the ward member were not accepted as they were received past a given deadline, but that the response from the conservation officer was accepted beyond that deadline. It does appear to be the case that the parish council and ward member were advised that their representations had missed the deadline when that was not the case. However, those representations are before me and there is nothing to indicate that they were not seen or taken into account by the planning officer.

¹ Reference ID: 16-030-20140306

² Reference ID: 16-051-20140306

5. Moreover, an assessment by the conservation officer would have been critical to officer's overall assessment of the case. The concerns expressed by the conservation officer would not necessarily have been outweighed by the support from the parish council or ward member. However, I appreciate that there has been a degree of disorganisation within the Council, with misleading information given to statutory consultees, which could be construed as unreasonable behaviour.
6. However, even if the conservation officer had missed the publicised deadline, in my experience it is not unusual for planning officers to extend deadlines for particular consultees. The standard response from Historic England recommends the assessment of the proposals by the Council's own specialist advisors. In this case the response from the conservation officer, as set out above, would have been an important component of the officer's report.
7. I appreciate that other consultees are of the opinion that the proposals would not amount to harm to the significance of the designated heritage assets. However, the Council came to a different view, as it is entitled to do. Where harm might be identified in relation to heritage assets, it is public benefits that have to be assessed to determine whether those benefits outweigh that harm in the overall balance. The letters of support do not clearly set out public benefits of particular weight, if at all.
8. I appreciate that the Gardens Trust appears to be concerned only with light emission, but this does not diminish or outweigh the concerns raised by the Council's specialist consultee. Nor does this response refer to the relevant legislation or national guidance regarding designated heritage assets, against which the proposals were assessed.
9. Although neither party has provided me with copies of the actual correspondence, it does not appear to be in dispute that the date for determination was repeatedly delayed. The Council's reasons are related to staff resource. On the basis of what is before me, it is difficult to know with any certainty how much weight these arguments should be given. However, I am aware from other casework that the extended period of COVID lockdowns and working from home, together with illness, did disrupt the staffing levels of very many public bodies.
10. The Council has also stated that the applicant was informed that the application was likely to be refused during the determination period. Again, there is no evidence to verify this fact, but I see no reason to dispute it.
11. Consequently, on the basis of what is before me it is difficult to conclude with any certainty that the Council failed to explain the reasons for the delay or failed to advise that the application would be refused. As such, on balance I am unable to conclude that the Council acted unreasonably. Even if I concluded that the Council was unreasonable in giving misleading information regarding deadlines, this has not led to unnecessary costs at appeal as the applicant was advised that the appeal would be refused.

Conclusion

12. As such, unreasonable behaviour leading to unnecessary costs at appeal has not been demonstrated. The application for an award of costs is refused.

A Edgington

INSPECTOR