The Planning Inspectorate

Costs Decision

Site visit made on 26 April 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Costs application in relation to Appeal Ref: APP/N1920/W/21/3283198
The Studio, 66 Watling Street, Radlett, Hertfordshire WD7 7NP

- 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 M Tsourou for a full award of costs against Hertsmere Borough Council.
- The appeal was against the refusal of planning permission for a first floor extension to single-storey detached office building.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and where the unreasonable behaviour has directly caused unnecessary or wasted expense in the appeal process. The PPG goes on to explain that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to procedural matters or to the substance of the matter under appeal. Examples given of unreasonable behaviour include making vague, generalised or inaccurate assertions which are unsupported by any objective analysis.

3. The Studio is an unlisted building within the Radlett North Conservation Area (CA). In its appeal statement, the Council has referred to the building as a 'non-designated heritage asset'. Although the building is not included on the Council's list of Locally Important Buildings, the PPG explains that local planning authorities may identify non-designated heritage assets as part of the decision-making process on planning applications[1]. I do not therefore find that it was necessarily unreasonable for the Council to have referred to the building as a non-designated heritage asset.

4. However, the PPG explains that irrespective of how they are identified, it is important that decisions to identify non-designated heritage assets are based on sound evidence. The Council has provided little firm evidence to demonstrate that The Studio is of particular architectural or historic interest in its own right, and I have accordingly concluded in my Appeal Decision that the building is not of sufficient heritage interest to merit identification as a non-designated heritage asset. Based on the submitted evidence, I am not satisfied that the Council has failed to properly substantiate its assertion within its response to the appeal that the building is a non-designated heritage asset, and in this regard, I consider that it has behaved unreasonably.

[1] Paragraph: 040 Reference ID: 18a-040-20190723

5. Be that as it may, the Council's stated reason for refusal of the planning application referred to the failure to preserve or enhance the character or appearance of the CA, rather than the effect on the building as a non-designated heritage asset.

6. The appeal building and those surrounding it are not specifically identified within the Radlett North Conservation Area Appraisal 2010 as making a positive contribution to the CA, but the Appraisal confirms that the omission of any particular feature does not imply that it is of no significance or value. In my experience, buildings and other features which may not warrant consideration as non-designated heritage assets or explicit identification within an appraisal or similar document may still make a positive contribution to the significance of a conservation area, albeit that such features are likely to be of lesser individual importance. Moreover, I am in no doubt that the character, appearance and significance of a conservation area may be affected by development, whether or not this is carried out on a site that currently makes a positive contribution. I have not been directed to any policy or guidance that I find would offer compelling support for an alternative premise that the significance of a conservation area may only be affected on a site where an existing building or its neighbours are specifically identified as being of historical importance.

7. I acknowledge that the Council does not specifically discuss the RNCAA, but it notes that the site is part of 'Character Zone 1' which is identified in this document, indicating that it has had some regard to the Appraisal. In any event, as my Appeal Decision makes clear, I agree with the Council that the appeal building does make a positive contribution to the CA, albeit that I have found this to be modest. I have found that the proposal would diminish this contribution, and furthermore that the development proposed would detract from the character and the appearance, and thus would harm the significance of the CA.

8. I therefore find that the Council's reason for refusal was well-founded. Consequently, I do not consider that the Council behaved unreasonably in refusing the planning application, and notwithstanding its failure to adequately substantiate its assertion made at appeal stage that The Studio is a non-designated heritage asset, I am not persuaded from the evidence before me that this has caused unnecessary or wasted expense in the appeal process.

9. The Council has not clarified the circumstances of any site visit, or specifically addressed the applicant's comments regarding their view that surrounding buildings also lack historical value, but I do not consider given the above that this is evidence of unreasonable behaviour.

10. For these reasons, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Consequently, the application for a full award of costs is refused.

J Bowyer

INSPECTOR