
Costs Decision

Site visit made on 26 July 2022

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Costs application in relation to Appeal Ref: APP/Y3425/D/22/3300267 23 Burton Manor Road, Stafford ST17 9QJ

- 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 Fiona Russell for a full award of costs against Stafford Borough Council.
 - The appeal was against the refusal of planning permission for what is described as being the upgrade of a conservatory using the existing base.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The appellant's claim for an award of costs is principally based upon the existence of the current conservatory erected as permitted development and the weight given to this structure; the absence of any proper assessment of the significance of the designated heritage asset being reflected in the sole reason for refusal; the lack of any specific design guidance for conservatories in the Council's *Burton Manor Village Conservation Area Character Appraisal* (the Appraisal); other schemes which have been approved and the potential for further details about the design of the appeal scheme being secured by a suitable condition.
4. In response, the Council confirmed that the erection of the proposed conservatory was not objectionable in principle and the Article 4 Direction affecting the Conservation Area was not a consideration in determining the appeal application.
5. The Council identified that because the proposed conservatory required planning permission it is was appropriate to assess the proposal against the policies of the development plan and relevant guidance. In the Council's judgement, the current conservatory being erected under what was previously permitted development meant it should be given no weight in the determination of the application.
6. The Council claims that the impact of the proposal on the heritage significance of the Burton Manor Conservation Area was considered, including taking into account other schemes. Although reference was only made to 2 schemes in

the Planning Officer's report, details of other schemes were included as part of the Council's Cost Rebuttal Statement but, at least in part, the absence of such details can be attributed to the householder appeal procedure not allowing for the submission of further evidence from a Council. The appellant responded to this additional information as part of the application for an award of costs rather than the appeal process itself.

7. As part of the appeal application, the Conservation Officer provided comments about the design of the proposed conservatory, including the choice of materials and the absence of finer details for the frame. The Council also refer the application being for full planning permission and the details being provided by the appellant for assessment in response to the Conservation Officer's comments. The appellant could have chosen not to submit such details and sought a condition.
8. There is a difference of interpretation of the design guidance on replacement windows and doors contained in the Appraisal. However, this difference of interpretation of the design guidance would not have led the Council to a different judgement concerning the use of uPVC as an external material rather than timber frame.
9. The different weight being given by the Council and me in my appeal decision to the current conservatory in the assessment of the proposed development is a matter of planning judgement. The need to assess the proposed conservatory against relevant development plan policies did arise because the proposal was the subject of a planning application.
10. Further, and although a different conclusion has been reached, the Council's reason for refusal and the reasoning as to why an assessment was made about the proposed uPVC frame causing less than substantial harm to the heritage significance of the Conservation Area is adequately explained.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that a full award of costs is not justified.

D J Barnes

INSPECTOR