
Costs Decisions

Site visit made on 21 February 2023

by E Worthington BA (Hons) MTP MUED MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 4 April 2023

Costs application in relation to Appeal Ref: APP/M2325/W/22/3299645 10 Bath Street, Lytham St Annes, Lancashire, England, FY8 5ES

- 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 Michael Bedford for a full award of costs against Fylde Council.
 - The appeal was against the refusal of planning permission for 'removal of single storey rear extension and construction of single storey rear extension including alterations to the height of the northern boundary wall. New single storey conservatory to rear and the replacement windows as indicated together with internal alterations'.
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 - The application is made by Mr Michael Bedford for a full award of costs against Fylde Council.
 - The appeal was against the refusal of listed building consent for 'removal of single storey rear extension and construction of single storey rear extension including alterations to the height of the northern boundary wall. New single storey conservatory to rear and the replacement windows as indicated together with internal alterations'.
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Decisions

1. The applications for a full award of costs are refused.

Procedural Matter

2. The applications for costs refer to applications for planning permission and listed building consent for the same development and works. In the interests of brevity, whilst each application has been judged on its individual merits, I am dealing with both in one decision letter.

Reasons

3. The National Planning Practice Guidance (the Guidance) advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
 4. It also states that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management
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responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through unavoidable delay.

5. Examples of behaviour which may lead to a substantive award of costs against the local planning authority are set out in the Guidance. These include not determining similar cases in a consistent manner and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
6. The appeal proposal is similar to a development approved in 2016 by the Council at neighbouring No 8. This forms part of the same listed building and is also within the Conservation Area. As considered in my Appeal Decisions, both the appeal scheme and the existing extension at No 8 are single storey glazed rear extensions covering the width of the buildings. Both square off the rear elevation of the building and alter the shape of the rear form of the terrace. Additionally the Council accepts that there has been no material change in the relevant national or local planning policy since the extension was permitted at No 8.
7. That said, whilst there are clear parallels between the schemes, the host properties differ. The extension at No 8 replaced a single storey conservatory structure that was attached to the original rear wall of the house, and so it is itself also attached to that rear wall. In contrast, the appeal property already has a two storey rear extension which has completely obscured the original rear wall of the house. Thus the appeal scheme seeks to add a further single storey rearward projection to that existing rear extension.
8. This being so, in practical terms, the circumstances that led to the approval of the extension at No 8 are not the same as those in the case of the appeal proposal. Whilst I have found the proposed development at No 10 to be acceptable and concluded that it would have a similar effect to that at No 8, due to the nature of the host properties and the differences between them, the schemes are not the same.
9. Additionally the appellant considers the Council has failed to take proper account of the impact of the existing extensions at the appeal property, and so has made vague, generalised or inaccurate assertions about the proposal's impact. The officer's report states that the proposal would cover the full width of the rear elevation of the original part of the terrace. I agree with the appellant that since the parties are agreed that the original rear elevation of the appeal property is already obscured by the existing extensions there, this statement is inaccurate and misleading.
10. Nevertheless, despite the use of this erroneous wording I am not persuaded that the Council were unaware of the existing additions to the appeal property. Taking all the evidence into account, it is clear to me from the Council's case overall that it was aware of these extensions when refusing the scheme. As set out in my Appeal Decisions, I have found that the existing extensions have already squared off the rear of the appeal property and altered its shape. Nevertheless, I am mindful that the proposal would alter it further and have a cumulative effect.

11. Whilst I have found the proposal to be acceptable in this regard, it is not unreasonable for the Council to have come to a different view on this, since it is a matter of judgement. This being so, I consider that the Council has supported its case adequately and has not made inaccurate assertions about the proposal's impact because it did not consider the existing extensions at the appeal property.
12. Bringing matters together, although I have allowed the appeals, I do not consider that it was unreasonable of the Council to consider the schemes at the appeal property and neighbouring No 8 differently, and come to a different outcome in relation to the appeal scheme, given the differences in the circumstances at play. I am also content that it has not relied on reasons for refusal which are inaccurate.
13. Thus, for the reasons given, the appeals could not have been avoided, and the Council has not prevented or delayed development which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
14. I therefore conclude that the appellant's costs in mounting the appeals were not unnecessarily incurred. Consequently, the applications for a full award of costs are refused.

E Worthington

INSPECTOR