The Planning Inspectorate

# Costs Decision

Site visit made on 23 October 2023

**by A Parkin BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8th November 2023**

**Costs application in relation to Appeal B Ref: APP/L5810/W/23/3321553**
**Grove Cottage, 52 Ham Street, Richmond upon Thames, London TW10 7HT**

- 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 D Bejan for a full award of costs against Richmond Upon Thames London Borough Council.
- The appeal was against the refusal of planning permission for ground floor extension, refurbishment of the existing porch, new first floor window, replacement fenestration and associated site landscaping.

## Decision

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

## Reasons

2. Parties in planning appeals normally meet their own expenses. However, Planning Practice Guidance (PPG) 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 applicant considers the Council has behaved unreasonably by refusing planning permission for effectively the same proposal for which it is said to have granted listed building consent.

4. I note from the evidence that the Council approved a listed building consent application for a proposal that has a very similar description to the Appeal B proposal and at the same address, on 19 April 2023[1]. The applicant has not specified the reference number of the listed building consent approval in their costs application. However, the Council has not disputed this and from the evidence I am satisfied that the listed building consent approval decision notice and officer report at Appendix 3 of the applicant's Statement of Case are for this approval.

5. The legislation concerning planning applications and listed building consent applications is different and requires separate and distinct assessments by the Council; different policies also apply.

6. The Council's officer report for the Appeal B proposal explains why the Council considers this to be inappropriate development on Metropolitan Open Land (MOL). This is because the Council considers the proposal would not meet the exceptions to inappropriate development listed at Paragraph 149 of the National Planning Policy Framework 2023 (the Framework), and specifically because the proposed extension would be *a disproportionate addition over and*

[1] LPA Ref. 22/3763/LBC

*above the size of the original building*[2]. This is a planning judgement which the Council is entitled to make.

7. However, from the officer report for Appeal B, and the documents at Appendix 3 of the Statement of Case, the Council has also concluded that the same proposal would not harm the significance of Grove Cottage, part of a Grade II listed building, or the setting of Newman House, a Grade II listed building.

8. It is not rational to conclude that the proposed extension would not harm the significance of Grove Cottage/Newman House, which is a designated heritage asset, and yet also be a disproportionate addition over and above the size of the original building. A disproportionate addition would manifestly harm significance to some extent and so this inconsistency is clearly unreasonable behaviour by the Council.

9. In my main decisions I have dismissed all four appeals and so I do not consider the Council's decision to refuse planning permission for the Appeal B proposal to be unreasonable behaviour of itself, it is the inconsistency with its other decisions which causes it to be so.

10. Both parties have misinterpreted policy regarding MOL and the status of Grove Cottage as part of a listed building. I also note the applicant wrote to the Planning Inspectorate on 3 August 2023 requesting that the four current appeals on this site be determined by the same Inspector[3]. This was because, amongst other things, 'each appeal concerns the same site, [and] raises the same MOL and heritage issues.'

11. For these reasons, it has not been demonstrated that the applicant has incurred unnecessary or wasted expense in the appeal process. Consequently, an award of costs is not justified.

*Andrew Parkin*

INSPECTOR

[2] Paragraph 149c) of the Framework
[3] Applicant Ref. 178