



Costs Decision

Site visit made on 14 May 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 12 August 2024

Costs application in relation to Appeal A: APP/G2435/W/23/3333599 Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- 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 and Mrs Ian Lynam for a full award of costs against North West Leicestershire District Council.
 - The appeal was against the refusal of planning permission for a single storey extension and rooflights.
-

Costs application in relation to Appeal B: APP/G2435/Y/23/3333604 Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Ian Lynam for a full award of costs against North West Leicestershire District Council.
 - The appeal was against the refusal of listed building consent for a single storey extension and rooflights.
-

Costs application in relation to Appeal C: APP/G2435/Y/23/3333614 Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- 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 and Mrs Ian Lynam for a full award of costs against North West Leicestershire District Council.
 - The appeal was against the refusal of planning permission for a single storey extension, rooflights and porch.
-

Costs application in relation to Appeal D: APP/G2435/Y/23/3333615 Collins Cottage, 7A Church Street, Swepstone, Leicestershire LE67 2SA

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Ian Lynam for a full award of costs against North West Leicestershire District Council.
 - The appeal was against the refusal of listed building consent for a single storey extension, rooflights and porch.
-

Decision

1. The applications for an award of costs are refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the 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 planning and listed building consent applications were validated by the Council on 6 April 2020. They were reallocated to a different Council officer on 28 May 2020. On 1 June 2020, the parties agreed an extension of time until 10 June 2020. The applicants subsequently requested updates on 17, 22 and 29 June and on 7 and 16 July, which the Council did not respond to. Following a further email on 27 July 2020, the Council advised that the decision would be prioritised. While the applicants understood that the applications would be determined at that time, there would have been no guarantee they would be approved. Irrespective, they were not determined, and there appears to have been no further correspondence between the parties, until 15 September 2023 when the applications were refused.
4. The PPG sets out that the Council's handling of a planning application may lead to an award of costs. This includes appeals where the Council failed to determine an application within the time limits without giving the applicant a proper explanation, and where the Inspector concludes there are no substantive reasons for the delay in determination and that better communication would have enabled the appeal to be avoided altogether.
5. The appeals in this case follow the Council's refusal of planning permission and listed building consent. Notwithstanding the lengthy delay and the Council's failure to communicate, which it acknowledges was not up to standard and for which it apologises, the Council did not fail to determine the applications. The Council has not behaved unreasonably in the appeals. Taking into account that the applications relate to unauthorised works and not to proposals, there is little evidence that the parties could have worked proactively to agree an acceptable scheme.
6. The applicants refer to the example of unreasonable behaviour in the PPG relating to preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan. However, the appeals relate to works that have been carried out. While the delay in decision making did result in a prolonged period of uncertainty as to whether or not the unauthorised works could be retained, nevertheless it did not prevent or delay development.
7. The Council has justified the reasons for refusal, in its officer reports and its appeal statements. While the applicants disagree with the Council's decisions, it does not follow that the Council made vague, generalised or inaccurate assertions about the impacts of the unauthorised works.
8. The Council acknowledges that the appeal site is not in a conservation area and the reference to such in the officer report was an error. As there were no reasons for refusal relating to impacts on a conservation area, other than highlighting the erroneous mention, the applicants were not put to unnecessary or wasted expense in the appeal in this regard.
9. The applicants consider that the Council also behaved unreasonably by acting contrary to or not following well established case law. The particular case law referred to relates to a case where an agricultural building was found not to be a curtilage listed building. However, there are differences between the buildings

in that case and these appeals, including in terms of physical and functional relationships. It was not unreasonable of the Council to conclude that the case law, while relevant to the issue, was not directly applicable in this case.

10. The unauthorised works to the Collins Cottage former outbuilding are not directly comparable to schemes elsewhere, including the approved domestic rear extension and alterations to the principal listed building in this case, a dwelling house. It was not unreasonable of the Council to consider the appeals on their own merits. It has not been robustly demonstrated that the Council failed to determine similar cases in a consistent manner.
11. I agree that the Council's failure to communicate with the applicants during the processing of the applications, and the significantly delayed determination, do constitute unreasonable behaviour. However, on the basis that the council would have reached the same conclusion and decision at an earlier date, the appeals could not have been avoided. As can be seen from my appeal decisions, I similarly found harm to the heritage assets and I dismissed the appeals accordingly. As such, the Council's behaviour has not resulted in unnecessary or wasted expense in the appeals.

Conclusion

12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense in the appeals has not been demonstrated and an award of costs is not justified in this case.
13. For this reason, the applications for award for costs are refused.

Sarah Manchester

INSPECTOR