



Costs Decision

Site visit made on 20 August 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2024

Costs application in relation to Appeal Ref: APP/X2220/Y/24/3344672 Dambridge Oast, Dambridge Farm Road, Wingham CT3 1NQ

- 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 & Mrs Max and Aneela Rahman for a full award of costs against Dover District Council.
 - The appeal was against the refusal of an application for listed building consent for a proposed single storey extension.
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Decision

1. The application for a full award of costs is 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 applicants contend that the Council has behaved unreasonably on both procedural and substantive grounds, including: failing to assess the scheme on its own merits; making vague, generalised and inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis; failing to determine the case in a consistent manner to a similar comparable case; refusing to enter into discussions with the applicants; and, preventing or delaying a development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicants originally applied for a linked extension to the listed building, which was not supported by the Council. A detached outbuilding was later approved by the Council¹. The Council previously advised that they were unable to support linking the outbuilding to the listed building. It is evident that the Council clearly and consistently articulated the reasons why the principle of linking the outbuilding to the listed building could not be supported.
5. I appreciate that the applicants sought to find an acceptable design solution, had entered into pre-application discussions with the Council and provided a comprehensive Heritage Statement. While the pre-application response may

¹ Application ref: 22/00241

not have provided the outcome desired, evidently the Council did enter into discussions with the applicants and gave them comprehensive pre-application advice on a proposed single-storey link extension.

6. The appeal scheme relates to a link between a detached outbuilding and the Oasthouse. The size and scale of the proposal is clear from the submitted plans. While the wording of the reason for refusal could have been clearer, the Council's assessment of the impact of the proposal is clearly substantiated within their delegated report and Statement of Case. It is not unreasonable for any previous professional assessment to be taken into consideration during the determination and assessment of the appeal application. Based on the evidence before me, I am satisfied that the Council assessed the appeal scheme on its own merits.
7. Fundamentally, the appeal proposal would link the existing outbuilding to the Oasthouse, which, irrespective of the scale of the link itself would cumulatively result in a large and bulky addition to the listed building. While the impact of the proposal on the 'fire hole' is unclear, the proposal would result in the loss of historic fabric through the creation of a new opening. I do not find that the evidence provided by the Council in respect to the reasons for refusal is vague, generalised, inaccurate or unfounded. Overall, I am satisfied that the Council has adequately substantiated its reasons for refusal.
8. Given that the special architectural and historic interest of a listed building is highly individualised, assessment of a proposal would be pertinent to specifics and merits in each case. As will be seen from my decision letter, I did not agree that the examples given were directly comparable cases, notwithstanding they were close to the appeal site and involved the use of glass on listed buildings. Although the Council may have granted listed building consent for other glazed extensions, this does not demonstrate a failure to determine the case in a consistent manner. Furthermore, the need to consider public benefits would only be relevant in the event of finding harm to a designated heritage asset.
9. The Council found that the proposal conflicted with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework 2023. Listed building consent (section 20) appeals are not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Consequently, they do not need to be determined in accordance with the development plan.
10. Drawing all of the above together, I do not consider that unreasonable behaviour on the part of the Council, on either a substantive or procedural basis has been demonstrated. It therefore follows that the appeal was not one that could have clearly been avoided. As a result, there has been no wasted expense in the process.

Conclusion

11. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of costs is refused.

A James INSPECTOR