

Costs Decision

Hearing held on 10 January 2017

Site visit made on 10 January 2017

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 January 2017

Costs application in relation to Appeal Ref: APP/D3505/F/16/3151069 18A Little St Mary's, Long Melford, Suffolk, CO10 9LQ

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Babergh District Council for a partial award of costs against Mr & Mrs Joe and Gilly Cerri.
 - The hearing was in connection with an appeal against a listed building enforcement notice alleging the installation of 2 no. replacement internal staircases.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for the Council

2. The Council seek costs on the basis that it has been put to unnecessary and wasted expense in having to defend the appeal on ground (c), which was effectively withdrawn at the Hearing. It had to make the case to refute that ground and costs were incurred in the preparation of this part of the Council's case.

The response by Mr & Mrs Cerri

3. The appellant put in a retrospective application for retention of the works in 2015, after they were advised to do so by the Council. The application was then refused and the listed building enforcement notice was subsequently issued. This does not mean that the appellants agreed that, at the time the appeal was made, an application was, in fact, necessary.

Reasons

4. The Government's Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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.
 5. The appellants cited ground (c) on the appeal form but have not, in their subsequent Statement and final comments, put forward any substantive reasons why the works were not a contravention of listed building control or why listed building consent was not required. The Council obviously had to respond to the ground of appeal in its own Statement, even though it did not have any idea, at that stage, of what the appellants might have to say on the subject.
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6. The appellants' response in their final comments is confined to a criticism of the Council's suggestion that, because an application for listed building consent was submitted, the appellants had previously agreed that it was necessary. I accept that the submission of the application does not necessarily imply that the appellants accepted that it was required. They were following the advice given to them by the Council at that time but this would not prevent them from arguing a case on ground (c) at a subsequent appeal against a listed building enforcement notice.
7. However, there were no cogent reasons put forward to support this ground of appeal, either in writing or at the Hearing, but the Council has nevertheless had to spend some time preparing its rebuttal of it, as included in its Statement, and will have incurred wasted expense as a result.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Section 7(2) and Schedule 3 of the Countryside and Rights of Way Act 2000, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr and Mrs Joe and Gilly Celli shall pay to Babergh District Council the costs of the appeal proceedings described in the heading of this decision, limited to those incurred in relation to the Council's submissions on the appeal on ground (c); such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Babergh District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Katie Peerless

Inspector