
Costs Decisions

Site visit made on 17 January 2017

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Decision date: 24th February 2017

Costs application in relation to Appeal Ref: APP/X5990/Y/16/3160767 No. 29 Coach and Horses, Greek Street, London W1D 5DH

- 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 Alistair Choat for a full award of costs against City of Westminster Council.
 - The appeal was against the refusal of the Council to grant, subject to conditions, listed building consent for alterations to the rear elevation to include the installation of a new door at first floor level and a compressor on the external flat roof at rear first floor level. Internal alterations throughout the property.
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Costs application in relation to Appeal Ref: APP/X5990/Y/16/3160767 No. 29 Coach and Horses, Greek Street, London W1D 5DH

- 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 Alistair Choat for a full award of costs against City of Westminster Council.
 - The appeal was against the refusal of the Council to grant, subject to conditions, planning permission for alterations to the rear elevation to include the installation of a new door at first floor level and a compressor on the external flat roof at rear first floor level. Internal alterations throughout the property.
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Decision

1. The application, in respect of both appeals, is refused and no award made.

Reasons

2. The Planning Practice Guidance 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 appellant identifies a range of areas where he feels the Council has in procedural matters behaved unreasonably, including reference to the wrong development plan policy in the decision notices, neglecting to supersede all documents and drawings with submitted revisions, suggesting the withdrawal of the both applications, refusing to regularise the kitchen extract flue arrangements and introducing a new description of development.
4. The appellant also asserts the Council have behaved unreasonably in substantive terms by refusing to meet his agent, ignoring letters from his agent

- and not taking more prominent interventions to accommodate kitchen extracts elsewhere into account in their decision.
5. The paired applications now the subject of these appeal have a long history, and I get a sense of shared frustration from both parties that communication has not always allowed a swift assessment of the merits of both. Whatever the substance of this, the question is in relation to the appeals, whether the Council's behaviour has resulted in unnecessary expense on behalf of the appellant.
 6. By any standards the works undertaken to the listed building, both in regard to the removal of the stair and the installation of the extract vents, are significant in terms of their effect on the special interest of the listed building. The Council has a duty to consider these under the terms of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as their own development plan policy. This they have undertaken and their reasons for the determination of the applications are lucidly set out both in the reasons for refusal and in their evidence.
 7. Whilst the perceived frustrations of the appellant in regard to reference to policy, publication of related documentation or advice on withdrawal of the applications are noted, these matters have not conditioned and have no bearing on the final decision by the Council to refuse the applications. In this regard the Council cannot be held to have acted unreasonably in the context of the Cost regime. The matter of plant installation at the rear of the property is not mentioned in the Council's decision notice. However, this can reasonably be understood as the provisions of the appellant have resolved any substantive issue in relation to it. Again the Council's behaviour here can be seen as reasonable in this regard.
 8. Similarly, whilst other works to listed buildings in the vicinity, whether authorised or otherwise, may be a legitimate consideration, and merit a degree of weight, of itself, the suggested presence of such works, without evidential context, is very unlikely to be sufficient to significantly alter the assessment of the merits of a proposal such as that set out in the appeals. Again the Council has not behaved unreasonably in responding in the manner it did.
 9. Fees incurred instructing an architectural consultant are a necessity of the process, as is the provision of the necessary access to the site for the purposes of determining the appeal. Loss of business as a result of the appeal site visit is not quantified and as activity was minimal at the time and staff on-hand, this would not seem any basis for a significant loss of revenue.
 10. Both applications have a long history. I have not supported the Council's reasons for refusing the applications for the very detailed and specific reasons I set out in the accompanying decision. But this, and the duration of the process, does not mean the Council has acted unreasonably.
 11. For the reasons set out above I conclude that the Council has not behaved unreasonably in respect of either appeals and thus not caused unnecessary or wasted expense on behalf of the appellant. Accordingly no award is made.

David Morgan

Inspector