
Costs Decision

Site visit made on 15 February 2017

by Terry G Phillimore MA MCD MRTPI

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

Decision date: 31 March 2017

Costs application in relation to Appeal Ref: APP/M5450/W/16/3166058 St Margaret's, Mount Park Road, Harrow HA1 3JP (Appeal A)

- 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 Drs David & Rupa Bessant for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of planning permission for external alterations and refurbishment works including new rear dormers, replacement roof, replacement windows, new conservatory, installation of new services, raising of roof, removal of external cellar access and railings and blocking up the external door to the basement, new brick gate piers to both vehicular entrances and new timber gates.
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Costs application in relation to Appeal Ref: APP/M5450/Y/16/3160113 St Margaret's, Mount Park Road, Harrow HA1 3JP (Appeal B)

- 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 Drs David & Rupa Bessant for a full award of costs against the Council of the London Borough of Harrow.
 - The appeal was against the refusal of listed building consent for extensive refurbishment of the external fabric of the building including new roof, replacement windows, 2No. dormer windows to the rear elevation to replace existing, internal alterations and improvements to the kitchen, breakfast room and dining room, installation of new services throughout, installation of new thermal insulation to roofs, floors and parts of wall construction with high levels of heatloss; removal of external cellar access & railings and blocking up external door to basement; construction of new brick gate piers to both vehicular entrances with new timber gates.
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Decision

1. The application for an award of costs relating to Appeals A and B is refused.

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. From my decisions on the appeals it will be seen that I have found the proposed scheme to be unacceptable in relation to its effect on designated heritage assets. In reaching this conclusion I have largely agreed with the case put forward by the Council with regard to the harm to heritage significance that would result from the elements of the proposal that represent changes from an
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earlier approved scheme, albeit that I find only slight harm from the proposed insulation works. While having regard to the appellant's evidence relating to heritage significance and impact, the necessary assessment on these matters involves an application of judgement. However, there is agreement between the parties that the proposal involves less than substantial harm which, in accordance with the National Planning Policy Framework, is required to be weighed against public benefits.

4. I find no firm basis on which to conclude that the Council adopted an unduly narrow and restrictive interpretation of relevant planning legislation in assessing the benefits of the proposals. Given that it had already approved a similar scheme of refurbishment of the building for single family use, it was appropriate for the Council to assess the degree of justification for the differing proposed works. As part of this it was reasonable for it to distinguish elements of work that might be viewed as desirable by the occupier but are not a requirement to enable the optimum viable use. In the context of the weighing exercise that needed to be carried out I do not consider that the Council underplayed the scale of renovations and repair works required to the property in a manner that was unwarranted. In the same way as the Council, I draw the balance as one of the harm of the current scheme not being outweighed by public benefits. The Council was therefore able to substantiate its decisions, and there is no unreasonable behaviour in that respect.
5. The appellant's allegations on procedural grounds relate to difficulties said to have been encountered during the application process and resultant delays and added expense. While costs applications may relate to events before an appeal, costs that are unrelated to the appeal are ineligible. In addition to my finding that the Council was able to substantiate its decisions, I find no unreasonable procedural behaviour that led to unnecessary appeals, and there is none relating to the appeals themselves.

Conclusion

6. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and no award of costs is warranted.

T G Phillimore

INSPECTOR