
Costs Decision

Site visit made on 10 April 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 12 May 2017

Costs application in relation to Appeal Ref: APP/W0340/Y/16/3166911 24 Northbrook Street, Newbury RG14 1DJ

- 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 W H Smith for a full award of costs against West Berkshire Council.
 - The appeal was against the refusal of listed building consent for the removal and installation of external signage.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
3. The costs application was based on the single ground that the applicant has wasted considerable time and expense in making an appeal in the circumstances where the Council should have been aware that their refusal of listed building consent would not stand.
4. On 2 August 2016 advertisement consent was granted on appeal for an externally illuminated fascia sign and double sided projecting sign¹. This decision makes it clear that listed building consent would also be required for the proposed signs. Such listed building consent was refused². PPG states that local planning authorities may be at a risk of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example in persisting in objections to a scheme which an Inspector has previously indicated to be acceptable.
5. I recognise the clear sense of grievance expressed and acknowledge that this may be compounded by my appeal decision, which is at odds with the advertisement consent appeal decision. However, in my decision I was required to have regard to the statutory duty under s16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as the policy in

¹ APP/W0340/Z/16/3144560

² Council ref 16/02203/LBC, 15/11/16.

paragraphs 131-134 of the National Planning Policy Framework. This does not need to be considered directly when determining advertisement consent appeals in relation to a listed building but does apply to listed building consent applications and appeals. The appeal therefore stood to be considered under different legislation and policy than the advertisement consent appeal did. I therefore consider that on this matter the Council have not acted unreasonably.

6. I note that the Council's comments on the application refer to DCLG Circular, which the applicant has assumed relates to the now superseded Circular 08/93. I have considered the application based on the advice within the PPG.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Jon Hockley

INSPECTOR