



Costs Decision

Site visit made on 3 May 2017

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 30th June 2017

Costs application in relation to Appeal Ref: APP/H5960/Y/17/3169206 100 Tooting Bec Road, London SW17 8BG

- 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 Edward Checkley for a full award of costs against the Council of the London Borough of Wandsworth.
 - The appeal was against the refusal of listed building consent for the replacement of a number of sash and casement windows.
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Decision

1. The application is refused.

Reasons

2. Irrespective of the outcome of the appeal, 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. The Planning Practice Guidance (PPG) identifies that awards may either be substantive, relating to the planning merits of the case or procedural, relating to the appeal process.
3. The appellant's basis for the costs application relates to the conflicting advice given by the Council, specifically in relation to the substance of the appeal, the replacement of the windows. The appellant's statement sets out various interactions with the Council dating back to 2013 when the appellant first purchased the property. It seems, from what I have read, that various Council officers visited the property over a period of time and gave advice on a variety of works. On the basis of what the appellant considered was the advice given to him, replacement windows were manufactured.
4. Whilst much of the appellant's evidence is anecdotal, I have had sight of an email dated March 2015 in which the Council advised the appellant to report on each of the existing windows in the building, to explain the extent of repair needed and to justify those windows that needed replacing in terms of being beyond economic repair and/or unoriginal. I am aware that a local window company reported back to the appellant to the effect that all but one of the windows need to be replaced but whether or not there was further discussion between the main parties following the Council's email is unclear.
5. However, costs can only be awarded in relation to unnecessary expense as part of the current appeal. The protracted discussions set out by the appellant, pre-dated the submission of the listed building application in May 2016 for the

replacement of the windows. I am not aware that the application was accompanied by a detailed survey or justification for the removal of all of the windows as requested by the Council. The officer report clearly sets out why the replacement of all of the windows could not be accepted without convincing justification. In the context of the statutory requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990, this is an appropriate approach and does not amount to unreasonable behaviour.

6. Whether or not advice given prior to the submission of the application was consistent or misleading is a matter for the Council's internal complaints procedure. However it seems to me that the appellant took a risk in having the windows manufactured prior to the granting of Listed Building Consent. In any event the reasons for the refusal of the Listed Building Consent as set out in the officer report are clear and relate to the statutory duty.
7. The PPG advises that where a local planning authority has exercised its duty to determine applications in a reasonable manner it should not be liable for an award of costs. Consequently I do not find that there has been unreasonable behaviour that has resulted in unnecessary or wasted expense in the appeal process.
8. As a result, the application for an award of costs is refused.

S Ashworth

INSPECTOR