



Costs Decisions

Site visit made on 3 July 2017

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 31 July 2017

Costs application in relation to Appeal Ref: APP/K5600/W/17/3173647 56 Addison Avenue, London W11 4QP

- 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 and Mrs Braden for a full award of costs against The Council of The Royal Borough of Kensington & Chelsea.
 - The appeal was against the refusal of planning permission for the erection of a summer house with store to the rear of the garden and associated landscaping.
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Costs application in relation to Appeal Ref: APP/K5600/Y/17/3173650 56 Addison Avenue, London W11 4QP

- 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 and Mrs Braden for a full award of costs against The Council of The Royal Borough of Kensington & Chelsea.
 - The appeal was against the refusal of listed building consent for the erection of a summer house with store to the rear of the garden and associated landscaping.
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Decision

1. The applications for costs are refused.

Reasons

2. National Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and 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.
3. The appellant points out that the Council has since granted planning permission and Listed Building Consent for a very similar scheme which differs only in respect of a reduced height of the pitched roof of 0.3m. In addition, the appellant is critical of the Council's conduct at the Committee and its consideration of a photomontage produced by a third party.
4. The appeal site is a listed building which itself is surrounded by other listed buildings and within a conservation area. The appeal site can therefore be said to be within a sensitive location where there are statutory duties and local policies which require specific consideration of the effects of works and development on these important heritage assets. The officer's

recommendation for the appeal scheme was that the Council's Committee should grant planning permission and listed building consent. However, it is clear that such a recommendation is made on balance and that careful consideration is given within the report to the effects of the proposal on the listed buildings and conservation area.

5. Members of committees are not bound to accept the advice and recommendation of its officers but if they do not accept it, they should be able to support the reasons for refusal. In relation to the Council's statement it is clear to me that, taking account of the sensitive location for the proposal, there were reasonable grounds for members of the Committee coming to a different view than the officers had done. Often such matters will rely on a subjective judgement and based on the fact that the proposal would be visible to some extent from the surrounding gardens and houses due to its height and size, it is reasonable to take account of these effects. Whilst I have disagreed with the conclusion reached by the Committee, I consider that it is a view that could be reasonably arrived at and one that is supported by the Council's statement.
6. In relation to the more recent approval at the site, there must come a point where a reduction in the size of such a scheme will make the proposal acceptable to the Council, in cases such as this. Whilst the appellants' view the reduction as marginal, they must have thought it significant enough to warrant a revised application. The proposed reduction would have an effect on the perception of the size of the scheme and I am not critical of the Council for concluding this second scheme to be acceptable, compared to their conclusions on the appeal scheme. Often such judgements will be finely balanced, as appears to have been the case here.
7. With regard to the conduct at the Committee, it is not for me to criticise the procedures that the Council has in place for applicants and objectors to speak and I can well understand that the submission of new information which has not been previously circulated may be turned away by the committee. The fact that material submitted by third parties may ultimately be found to be inaccurate is not reflective of unreasonable behaviour by the Council.
8. I have taken account of the other matters raised by the appellant but it should be made clear that costs may only be considered in relation to the scheme which is the subject of the appeal and that consideration of the amount of the claim is not part of my assessment.
9. In the light of my findings, I conclude that there has been no unreasonable behaviour by the Council. Consequently, the applications for an award of costs are refused.

S T Wood

INSPECTOR