
Costs Decision

Site visit made on 28 September 2020

by Andrew Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 07 October 2020

Costs application in relation to Appeal Ref: APP/V5570/Y/20/3248010 17 Tufnell Park Road, Islington, London N7 0PG

- 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 Sam Blom-Cooper for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against the refusal of listed building consent for replacement of front elevation fenestration with ultra-slim double-glazing.
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Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an 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.
3. The applicant has made an application for a full award of costs on the basis that the Council's stance on the design of the replacement windows shifted entirely during the appeal process.
4. In its officer report the Council states that the introduction of 6 over 6 sash windows offers an opportunity to enhance the listed building and the conservation area. It included an extract from a previous officer report that stated that the windows are not original. Accordingly, the applicant's statement of case focussed on the introduction of double glazing to the front elevation of the building.
5. In its statement of case the Council introduced the matter of the overall design of the replacement first floor windows, objecting to the proposed 6 over 6 sash windows. This represented a complete shift from its previous position. The applicant suggests that if this position had been made known at an earlier stage he could have considered an alternative approach. I therefore consider the Council to have acted unreasonably in this respect.
6. I also need to consider whether this unreasonable behaviour has resulted in unnecessary or wasted expense on the part of the applicant. It is clear that the applicant has incurred unnecessary or wasted expense by spending additional time and expense addressing the Council's new position in his final comments.

7. The other aspect of the proposal was the introduction of double glazing. The Council did not change its position during the appeal regarding these works. In respect of this matter alone I am satisfied that the Council did not act unreasonably and therefore a full award of costs is not justified.
8. In summary I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Islington shall pay to Mr Sam Blom-Cooper, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in preparing evidence to address the Council's objection to changing the first floor windows to 2 over 2 sashes; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the Council of the London Borough of Islington, to who a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Tucker

INSPECTOR