



Costs Decision

Site visit made on 7 July and 10 August 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2020.

Costs application in relation to Appeal Ref: APP/R0660/Y/20/3249664 7 Moody Street, Congleton CW12 4AN

- 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 Michael Bracegirdle for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of listed building consent for works described as 'demolition of existing 2 storey office building and ancillary storage buildings and erection of new 2 storey building comprising 5 nr 2 bedroom apartments with courtyard parking and new vehicular access from the highway'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The applicant alleges that the Council acted unreasonably in its requirement for an application for listed building consent for the works described above. They are of the view that the works do not require listed building consent as they advised the Council that no works would be undertaken to the adjacent listed wall. They assert that, despite this assurance, the Council insisted that an application be made.
4. Without repeating my reasoning here, it can be seen from my appeal decision that an application for listed building consent was not required. The evidence to support the Council's assertion that any such consent was required was limited and did not address any statutory requirements in this regard. I therefore find the Council's behaviour to have been unreasonable and this subsequently led to a delay in the determination of the associated planning application.
5. I turn now to the matter of unnecessary or wasted expense. Both the application for listed building consent and the associated planning application¹ were refused for identical reasons in relation to heritage matters. This led to both refusals being challenged at appeal. However, a combined appeal statement was prepared to support the appeals and final comments were

¹ LPA Ref 19/1061C and Appeal Ref APP/R0660/W/20/324661

provided in the form of a short email. This involved a straightforward rebuttal of the Council's case for both appeals and did not involve any further assessment with regard to heritage matters.

6. Accordingly, it appears that there was little, if any, additional effort as a result of appealing the unnecessary refusal of listed building consent, particularly given that the appeal in relation to the refusal of planning permission was unavoidable. In essence, the applicant's approach to dealing with the substantively identical reasons for refusal for the listed building and planning cases in one statement means that no unnecessary or wasted expense has occurred in relation to the listed building appeal.

Conclusion

7. Although I find that the Council acted unreasonably in its handling of the application for listed building consent, it has not caused unnecessary or wasted expense. Therefore, an award of costs is not justified.

Jeff Tweddle

INSPECTOR