
Costs Decision

Hearing Held on 14 October 2020

Site visit made on 15 October 2020

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 October 2020

Costs application in relation to Appeal Ref: APP/N2739/Y/20/3248238 Newland Hall, Newland, Selby, North Yorkshire YO8 8PS

- 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 Stephen Greenwood for a full award of costs against Selby District Council.
 - The hearing was against the refusal of listed building consent for remedial work to eliminate damp internally. Remedial work to replace sand and cement pointing with lime mortar.
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Decision

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

The submissions

2. The costs application was submitted at the Hearing in writing. Following the close of the Hearing, the Council's response was also made in writing and the appellant made final comments.

Reasons

3. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
4. PPG sets out types of behaviour which may give rise to an award against a local planning authority and the applicant submits that the Council has acted unreasonably as they were uncooperative and when a more helpful approach would probably have resulted in either the appeal being avoided altogether. It is also held that the Council were unreasonable in refusing consent as they prevented works which should have clearly been permitted.
5. The Council considered that there was insufficient information within the original submission for a damp proof course to justify the proposals. That was a point which was conceded by the applicant's expert witness during the Hearing. However, following the advice of the Conservation Officer, the applicant did commission a more detailed survey which was then submitted during the course of the application. On review of this, a further visit to meet with the surveyor was declined by the Council and the Conservation Officer maintained their objections to the scheme.

6. Planning decisions are a matter of judgement and for listed buildings there are stringent legal duties to abide by in terms of having special regard to the desirability of preserving the building. Often this can justify a precautionary approach where there is deemed to be insufficient justification. While the updated survey report did have some shortcomings which I have identified in my decision, I do consider that the Council acted unreasonably overall.
7. Specifically, from the correspondence I have seen, basic advice was reiterated by the Conservation Officer, following a review of the updated survey. This related to matters such as the need for an independent and suitably qualified surveyor, preventing water ingress into the building, maintenance advice in respect of cracks, guttering and the installation of a French drain. Use of hot lime and the removal of modern materials was also identified.
8. However, based on the evidence in the survey, it was clear that the damp issues at the property were not a result of capillary action and thus much of the advice about water ingress was irrelevant. Moreover, the report looked at the use of lime as a repair but discounted this and explained why. It can be seen from my decision that I agreed with the justification put forward in the report.
9. In this regard, it was difficult to understand the continued stance by the Council. Had a further site visit between the surveyor and Conservation Officer taken place to discuss the contents of the report, I consider that the appeal could probably have been avoided.
10. Overall, the result is that I consider that the Council unreasonably prevented works which, in light of the evidence presented and the specific circumstances of the site, should clearly have been permitted. In light of my findings, I am satisfied that the appellant has incurred unnecessary costs in having to appeal the Council's decision. A full award of costs is therefore justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Selby District Council shall pay to Mr Stephen Greenwood the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Selby District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Searson

INSPECTOR