
Costs Decision

Site visit made on 4 January 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

Costs application in relation to Appeal Ref: APP/F0114/Y/20/3259846 Basement, 28 Grosvenor Place, Lambridge, Bath BA1 6BA

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs P Jeangirard for a full award of costs against Bath and North East Somerset Council.
 - The appeal was against the refusal of listed building consent for works described as installation of damp proofing membrane to vaults. Repairs to front courtyard (stone steps / door frame to store / re-painting hand rail).
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Decision

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

Procedural Matters

2. I do not appear to have received a specific response to the above application from the Council. I have therefore considered the application against the evidence otherwise set before me by the Council.

Reasons

3. 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.
 4. The applicants claim that the Council acted unreasonably on interrelated grounds which I summarise as:
 - a) failure to provide an appeal statement;
 - b) not reviewing their case promptly following the lodging of the appeal, as part of sensible on-going case management;
 - c) failure to produce evidence to substantiate its reason for refusal;
 - d) vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by objective analysis; and
 - e) inconsistency in decision making.
 5. The Council failed to provide an appeal statement having indicated within their Questionnaire that one would be provided. With regard to Ground (a) this was unreasonable as it introduced uncertainty.
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6. Whether this can be taken to imply that the case was not therefore promptly reviewed, is however unclear, as there is no definitive evidence either way. Ground (b) therefore fails.
7. The lack of appeal statement alone cannot otherwise be taken as an indication that the Council considered that its decision was erroneous in retrospect, or therefore of its view that the appeal should succeed. Indeed, I ultimately dismissed the appeal on the same grounds as consent was refused. Therefore, it cannot logically follow that the applicants incurred unnecessary or wasted expense appealing the decision. Ground (a) therefore fails.
8. Local planning authorities do frequently rely on their officer reports at appeal in cases where the latter sufficiently address the matters in dispute. In these cases there is no separate appeal statement. The Council did not indicate that it was taking this approach. Nonetheless, in this instance I am satisfied that the Council's officer report clearly set out and explained its concerns in relation to the damp proofing works, without need for further evidence, clarification, substantiation or analysis.
9. In this regard the appeal was not made in relation to enforcement action. Consequently, though this was a matter upon which the appellants offered speculation, it lies outside the scope of the appeal to determine the potential for such action. There was therefore no need for the Council to provide detailed evidence in relation to this matter. For this and the above reasons, Grounds (c) and (d) therefore fail.
10. The applicant's contention that refusal of the scheme was inconsistent with other decisions, appears to have been subject of email correspondence between the parties. I was not provided with the Council's responses, and in the absence of an appeal statement, the Council's view has not otherwise been articulated. Nonetheless, and again as set out in the main Decision, the evidence set before me was insufficiently detailed to reach a finding of inconsistency. The applicants otherwise acknowledge that each case is properly treated on its merits. This is indeed the most appropriate approach in discharging statutory the duties set out within the Act in relation to a Grade I listed building. Ground (e) therefore fails.
11. For the reasons set out above I conclude that whilst the Council acted unreasonably in relation to Ground (a) solely, as this did not cause the applicants to incur unnecessary or wasted expense in the appeal process, the claim ultimately fails.

Conclusion

12. For the reasons set out above I conclude that the applicants' claim for a full award of costs should be dismissed.

Benjamin Webb

INSPECTOR