
Costs Decision

Site visit made on 8 June 2021

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2022

Costs application in relation to Appeal Ref: APP/G2713/Y/21/3288455 Sunny Bank, Carlton Husthwaite, Thirsk YO7 2BW

- 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 David Wilkinson for a full award of costs against Hambleton District Council.
 - The appeal was against the refusal of listed building consent for alterations and extension to existing east elevation utility room. Replace existing asbestos roof with red pantile roof, pitched to match main building. Increase height of walls to create additional storey. Take down and erect new east gable to extension.
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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 chose to submit a statement of common ground to the Council in respect of the case, notwithstanding that this is not a requirement for written representation appeals. Whilst it may have been helpful to the applicant for the Council to engage with him in respect of this matter, given the above, such engagement is not a necessary part of the appeal process. Accordingly, the Council did not act unreasonably in this regard.
4. The Council was entitled to reach a different view to the Applicant on the significance of the Listed Building and the contribution that the utility room made to this significance, including its relationship to the farm. In this regard the Council substantiated its concerns about the impact of the proposed works within both the officer report and subsequent appeal statement.
5. Whilst the description of the utility room as an 'outhouse' was not accurate, it is clear that the Council made its assessment on the part of the property to which the proposed works relate. The reference to the 'dairy' within the officer report related to works undertaken following the remodelling of the site after the 2019 approval, as opposed to implying that the utility room was used for such a purpose.

6. Assertions are made about the experience of the case officer, that no site visit was made and the absence of a Character Assessment and Management plan for the Conservation Area.
7. The Council state that when allocating case work it takes into consideration the individual skills and experience of officers. The officer report does not infer a lack of understanding of the case; it was written in a logical way drawing on relevant material. Whilst planning policies are not determinative in applications for listed building consent, referring to them is entirely reasonable because the planning objectives contained within them may well be material to the consideration in such consents. Whilst the reference to Section 72 of the Act is not correct in an application for listed building consent, there does however remain a statutory duty to consider this where development is within a conservation area, such as in this case. Such references are therefore not unreasonable on the Council's part.
8. At the time that the application was submitted the country was in the throes of the Coronavirus pandemic. Internal inspections of properties at that time were not permitted. The Council indicate that an officer visited the site and made an assessment of the works on 26 February 2021, taking photographs of the appeal property. When the revised drawings were submitted the Council had the site visit photographs to refer to, so it was not necessary to make a further visit. Such behaviour seems entirely reasonable to me rather than defer consideration of the application until such time that an internal inspection could be made.
9. It is accepted that there is no Character Assessment and Management plan for the Conservation Area, however whilst it is good practice to have such a plan, there is no legal requirement for conservation areas to have one.
10. Given the above and noting the frustration of the applicant about the handling of the application, I find that unreasonable behaviour resulting in unnecessary or wasted expense as set in the PPG has not been demonstrated. For this reason and having regard to all other matters raised, an award of costs is therefore not justified.

RC Kirby

INSPECTOR