
Costs Decisions

Site visit made on 25 July 2022

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

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal A: APP/P1133/W/22/3297399

15 Devon Square, Newton Abbot, Devon TQ12 2HN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Paul Dentith for a full award of costs against Teignbridge District Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for development described as replacement of fire door with traditional glazed door, replacement of rear window with glazed door, replacement of rear roof finish, plus various internal alterations.
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Appeal B: APP/P1133/Y/22/3294544

15 Devon Square, Newton Abbot, Devon TQ12 2HN

- 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 Paul Dentith for a full award of costs against Teignbridge District Council.
 - The appeal was against a refusal of the local planning authority to grant listed building consent for works described as replacement of fire door with traditional glazed door, replacement of rear window with glazed door, replacement of rear roof finish, plus various internal alterations.
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Decisions

1. The application for an award of costs in relation to Appeal A is dismissed.
2. The application for an award of costs in relation to Appeal B is dismissed.

Reasons

3. The Planning Practice Guidance 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 applicant claims that the Council acted on grounds which I summarise as:
 - (a) failure to consider the benefits of the appeal scheme; and
 - (b) lack of consistency in decision making.

Ground (a)

5. The officer reports relating to both applications acknowledge that the scheme would deliver some benefits. As such there was no failure on the part of the

Council to acknowledge them. It was otherwise open to the Council to reach its own view as to whether it considered the works in question to be beneficial, and then to attach whatever weight it saw fit. There was no obligation on the Council to agree with the appellant on the nature of the scheme's benefits, the weight that should be attached to them, or the overall balance. As such Ground (a) fails.

Ground (b)

6. As considered within my main decision, other parts of the terrace have been the subject of various alterations which have caused harm to the special interest and significance of the listed building. Some such alterations have involved the equivalent ground floor window in other units. Notwithstanding the principle of consistency, the acknowledgement of past harm to a listed building, whether sanctioned or otherwise, does not provide a basis to consider that further, distinctly separate harm should then be considered automatically acceptable.
7. In this regard decision making in relation to listed buildings takes place within the context statutory duties which set out the desirability of preservation. It furthermore takes place within the context of the national policy requirement to balance harm to significance against public benefits. Preservation is clearly not secured by permitting harm. However, harm to significance can sometimes be outweighed by the public benefits that it would help to deliver. Some scope for variation in decision making thus exists depending upon the specific circumstances of the case.
8. To the extent that previous decisions or works elsewhere within the terrace were relevant, the officer reports did not seek to explicitly address them. This was only covered within the context of the Council's response to the costs applications. Given that the listed building constitutes the terrace as a whole this was unreasonable. Even so, I am satisfied that the Council's decisions were correct and that its reasoning was sound. This is underlined by my own dismissal of both appeals on much the same basis. Ground (b) therefore fails.

Summary

9. I therefore find therefore that whilst I have identified some unreasonable behaviour on the Council's part, unnecessary or wasted expense in the appeal process has not been demonstrated.

Conclusions

10. For the reasons set out above, I conclude that the applicant's claim for an award of costs in relation to both Appeal A and Appeal B should be dismissed.

Benjamin Webb

INSPECTOR