
Costs Decisions

Site visit made on 24 April 2023

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Costs application in relation to Appeal A Ref: APP/P1133/W/22/3309036 Belford House, Bulford Lane, Kennford, Exeter, Devon, EX6 7TB.

- 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 Richard Frost for a full award of costs against Teignbridge District Council (the LPA).
 - The appeal was against the failure of the LPA to determine an application for planning permission for an extension and restoration.
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Costs application in relation to Appeal B Ref: APP/P1133/Y/22/3309033 Belford House, Bulford Lane, Kennford, Exeter, Devon, EX6 7TB.

- 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 Richard Frost for a full award of costs against Teignbridge District Council (the LPA).
 - The appeal was against the failure of the LPA to determine an application for listed building consent for an extension and restoration.
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Decisions

1. The applications are refused.

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. However, costs may be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The above Guidance also states that costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding. Behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. The aims of the costs regime include encouraging parties to behave in a reasonable way, such as timeliness, and not to add to development costs through avoidable delay. A procedural award of costs may be given at appeal if a local planning authority fails to co-operate with an appellant, or delays providing information, or fails to adhere to deadlines.
5. I appreciate the applicant's frustration and concern at the LPA's failure to determine these applications within the prescribed period. Not only does the applicant wish to move forward with his proposals to improve the living

accommodation for him and his family, but he also needs to secure approvals for the sympathetic restoration of Belford House following fire damage.

6. It was very unfortunate therefore that the LPA's conservation officer suffered a prolonged period of absence, due to ill-health, around the time when the LPA was due to determine the applications. This is an instance where such specialist advice was necessary in order for the LPA to properly consider the implications for a building that is recognised as being of special interest.
7. There can be many difficulties and/or uncertainties surrounding staff illness and neither the LPA nor its officers should be found wanting for an ensuing backlog of specialist heritage related casework. During current economic circumstances where most, if not all, local planning authorities are having to make very difficult decisions regarding spending/budgets and where alternative specialist advice may not be readily available, it would be unjust to find that the LPA acted unreasonably by failing to determine the applications in a timely manner.
8. The LPA subsequently sought and obtained the views of a conservation consultant on the planning merits of the proposals. The views of this specialist were included as part of its Appeal Statement. This Statement was submitted in accordance with the prescribed appeal timetable and the applicant was given the opportunity of commenting on any matters arising from it. (The applicant was also afforded an opportunity of responding to matters of clarification that the LPA provided in response to queries that I raised.)
9. Whilst the LPA therefore failed to determine the applications in a timely manner this was due to matters beyond its control. It appears to have acted as promptly as it could to secure alternative specialist advice and there is no cogent evidence to demonstrate that the LPA or its consultant failed to co-operate with the applicant or his agent.
10. It is unlikely that consent would be required to secure the protection of the surviving fabric of the building (thereby limiting the risk of further deterioration) whilst the LPA's views on the merits of the appeal proposals were received. In this regard, I note that the applicant has been professionally advised throughout much of the process.
11. I have found within the appeal decisions that planning permission and listed building consent should be refused for the proposed development, as well as aspects of the proposed works. Whilst there was a procedural failing by the LPA in its processing of the applications it did not therefore delay development or works that should reasonably have been permitted. Moreover, there were no procedural failings by the LPA during the appeal process.
12. For the reasons given above, I therefore conclude that the LPA did not act unreasonably and its behaviour did not cause the applicant to incur unnecessary or wasted expense. An award of costs is not therefore justified.

Neil Pope

Inspector