



Costs Decision

Site visit made on 8 June 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2023

Costs application in relation to Appeal Ref: APP/E2530/Y/22/3313626 3 and 4 St Peter's Hill, Stamford PE9 2PE

- 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 Keith Norman for a full award of costs against South Kesteven District Council.
- The appeal was against the refusal of listed building consent for internal and external alterations associated with the use of No. 3 and No. 4 St Peter's Hill as a single dwelling house; including the partial removal of walls, removal of internal/external features (including stairs etc) alterations to windows/doors, replacement of roofing, construction of balcony and stairs, alterations to openings and further internal/external alterations.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance ("the 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. Paragraph 048 of the PPG states that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation¹. Paragraph 049 gives examples of behaviour which may give rise to a substantive award of costs against a local planning authority, including not determining similar cases in a consistent manner².
4. The applicant's claim for an award of costs relates to the Council's handling of the application for listed building consent for works to Nos 3 and 4 St Peter's Hill. It can essentially be broken down into two main areas:
 - The Council's consultation with, and purported reliance on the advice of, the Society for the Protection of Ancient Buildings ("SPAB"); and
 - The Council's communication with the applicant and adherence to timescales during the period the application was being determined; its consistency of decision making, and the quality of information on the decision notice it issued.

¹ Reference ID: 16-048-20140306

² Reference ID: 16-049-20140306

5. The Council has not responded to the claim, but I have carefully considered the claim in the light of all the evidence available to me.

The Consultation

6. The Council consulted SPAB, a National Amenity Society ("NAS"), on the application for listed building consent. The applicant queried why this had happened, suggesting that the relevant direction issued to local planning authorities by the Secretary of State³ (hereafter "the Direction") requires that "they should only be consulted when 'demolition' of a listed building or significant part is proposed [and in this case the] proposed alterations do not constitute demolition."
7. Paragraph 4 of the Direction sets out the circumstances in which Historic England and the NASs *must* [my emphasis] be notified of applications for listed building consent. For the NASs, this includes cases where "works for the alteration of a listed building [...] comprise or include the demolition of any part of that building". The proposed works included the demolition of part of the rear extension of No 3 St Peters Hill, a Grade II listed building. On my reading of the Direction the Council was required to consult SPAB in respect of the proposed works, as indeed it did. In any event, there is nothing in the Direction which says that a local planning authority must not notify or consult any particular body.
8. There is no suggestion that anyone from SPAB visited the site in this case, but in my experience this need not necessarily be part of a consultee's role, and indeed is not something which could reasonably be expected of an NAS for every proposal on which it was consulted. However, the applicant considers that the lack of a site visit has resulted in SPAB offering, and the Council relying on, advice which was "ill-founded" or "incorrect".
9. The applicant has made a number of specific points in this respect, asserting that SPAB mistakenly referred to "the complete removal of an internal wall" between the 17th century and 1970s parts of No 3 when "in point of fact only 1.2m is to be removed", and attributing to SPAB of a "claim that historic flooring will be lost". However, these assertions are not supported by my reading of the three messages which SPAB sent to the Council in respect of this case⁴, seen in their proper context as an ongoing exchange in which both parties had access to, and understood, drawings and other supporting material. The claim that "SPAB have also made a completely erroneous objection re the proposed floor level alterations" is also largely unsupported by the evidence before me, as the drawings submitted by the applicant show that floor levels in No 3 would be altered to align with those in No4 (a matter which is addressed in my main decision).
10. It is in any event for the local planning authority to decide how much weight it gives to any consultee's advice. None of the alleged errors or inaccuracies which the applicant attributes to SPAB, to the extent that they are actually present at all in the SPAB consultation responses, appears to have been relied on by the Council. Beyond this, that the Council appears to have given

³ The Arrangements for Handling Heritage Applications – Notification to Historic England and National Amenity Societies and the Secretary of State (England) Direction 2021

⁴ On 14 January 2022, 16 March 2022, and a final (undated) e-mail acknowledging the addition of the *Conservation Structural Engineer's Report* to the application

considerable weight to the SPAB advice, and as such was within its rights to adopt in its officer report some of the terminology and phrasing used by SPAB.

11. Other related matters about terminology such as “maintaining original plan form”, “loss of cellular nature” (and related evidence published by the Royal Commission on Historic Monuments England), and “the loss of historic fabric” are related to the effect of the proposed works to the two listed buildings, and are addressed in the main appeal decision.
12. None of the points made by the applicant in connection with the consultation in general, and the role of or comments by SPAB in particular, is demonstrative of unreasonable behaviour by the Council in the terms set out in the PPG.

The Council’s communication and decision making

13. Planning permission was granted on 14 December 2021 for the “change of use of existing commercial property (Physiotherapist) to residential (Use Class C3) at 3 St Peters Hill, to allow for future use of No.3 and No.4 as a single dwelling”⁵. That the Council granted planning permission for the change of use of No 3 and then subsequently refused listed building consent for the works proposed to enable that change of use (and, in particular, that the same conservation officer was involved in both cases) is held up by the applicant as demonstrative of the Council being inconsistent.
14. The applicant has made further allegations that the Council or its officers were uncooperative (such as in respect of setting up a site meeting with the conservation officer), missed deadline dates for determining the application, or requested additional information without good reason or authority. However, no documentary information (such as e-mail correspondence) has been provided which might support the claim that any or all of these things amounted to unreasonable behaviour.
15. I have not been provided with the submitted drawings in respect of the earlier grant of planning permission for the change of use of No 3. However, it is apparent from the officer report and decision notice which are before me that it relates solely to a change of use of No 3; it does not allow for any external alterations or structural internal alterations to the building. That the Council has then refused consent for the specific works proposed in this appeal case, which were not part of the planning application scheme, is not indicative of it being inconsistent, whether the conservation officer involved is the same person or otherwise.
16. That the conservation officer subsequently objected “in principle” to the appeal scheme to combine the two listed buildings into a single dwelling, having not previously objected to the proposed change of use for No 3 only, is something which the Council may have needed to weigh in the balance when reaching its decision. It is not in itself, however, an illustration of inconsistent decision-making by the Council. How any individual council officer conducts their site visits, and how they choose to record information (or not) during or after a site visit is at most something which the applicant may wish to take up with the Council, but again it is not something which demonstrates unreasonable behaviour in the PPG’s terms.

⁵ LPA Ref: S21/1902

17. Having considered the proposed works to Nos 3 and 4 St Peter's Hill, the Council refused listed building consent. Its decision notice contained a single reason which appears to me to have been an adequate summary of the main issues for which consent had been refused. While I recognise that the applicant is unlikely to agree with me on this (and noting that it is not necessary for me to have accepted or agreed with every point made by or to the Council to have reached this finding), read in its proper context alongside the officer report and the other supporting evidence, I found the decision notice to be sound, consistent and clear cut.
18. I find that none of the issues raised by the applicant in respect of the Council's communication and decision making demonstrates that it has acted unreasonably in the terms set out in the PPG.

Conclusion

19. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. and an award of costs is not warranted.

M Cryan

Inspector