The Planning Inspectorate

Costs Decisions

Site visit made on 31 January 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Costs application in relation to Appeal A Ref: APP/U1430/W/23/3324343
The George in Rye Hotel, 98 High Street, Rye, East Sussex, TN31 7JT

- 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 The George on High Ltd for a full award of costs against Rother District Council.
- The appeal was against the refusal of planning permission for: retention of external colour scheme to front and side elevations (Retrospective).

Costs application in relation to Appeal B Ref: APP/U1430/W/23/3324344
The George in Rye Hotel, 98 High Street, Rye, East Sussex, TN31 7JT

- 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 The George on High Ltd for a full award of costs against Rother District Council.
- The appeal was against the refusal of listed building consent for: retention of external colour scheme to front and side elevations (Retrospective).

Decisions

1. The applications for costs are refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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 appellant considers that the Council behaved unreasonably during the time that the applications were being considered as a result of inconsistent advice and changes of personnel and a failure to engage effectively over the proposed painting scheme.

4. Following the fire at The George it was necessary to undertake extensive restoration works which required planning permission and listed building consent. These were granted conditionally Refs: RR/2020/573/P and RR/2020/574/L. However, the colour scheme for the external surfaces of the building was not approved at that time due to a disagreement between the parties. It is apparent that some of these difficulties arose due to changes in personnel and responsibilities at the Council. However, with scaffolding in place and the appellant keen to complete the works and re-open the business, the painting proceeded without securing the necessary permission and consent. It was therefore done at risk and in the knowledge that if the painting scheme was refused, an appeal would be inevitable.

5. Although the appellant considered that he had provided an evidence base for the paint colours that he applied, the Council did not agree and refused the scheme. The decision notice could have set out more detailed reasons for its objection but was adequate, and the reasons for its decision were set out in the officer's report. There is no doubt that the appearance of the building is significantly different from what it was before the fire. Changes of this magnitude on an important listed building at the heart of the conservation area were almost bound to be the source of differences of opinion. The fact that there were alternative views on the scheme expressed within the Council before it reached its decision indicates the sensitive nature of the proposal.

6. Nevertheless, it would have been helpful to the appellant if communication between the parties had been more effective, especially as the Council were aware of the ongoing restoration work that was being undertaken at the time. This was frustrating for the appellant, particularly when the original conservation officer had not raised any significant objection to the proposed painting scheme. However, anyone who takes on ownership of a listed building will be aware that making changes, especially ones that are highly visible to the public, will take time to be assessed and agreed. Whilst the lack of dialogue was unfortunate, I do not consider it amounted to unreasonable behaviour, as it was apparent from the separation of the painting scheme from the other works that the issue of the colour scheme was a matter of dispute.

7. Given the responsibilities that come with the need to conserve heritage assets in accordance with their significance, the issue of what alternative colours would be appropriate for this important building was a difficult and weighty judgement to make. However, provided it gave reasons, the Council was entitled to indicate a preference for colours that were similar to those which had been used in the previous decades, even if there was evidence that others had been used in the more distant past. The Council substantiated its reasons for refusing the applications in its appeal statement. As this was a matter of planning judgement, the Council did not act unreasonably.

8. In presenting the case at appeal the appellant provided the reports that had been prepared as part of the wider restoration of the building and additional supporting information for me to consider. As the painting scheme had already been implemented, I was able to assess its implications on site, rather than from plans and drawings. Based on the extensive written evidence from both main parties and what I saw on site, I found the scheme to be acceptable for the reasons set out in the appeal decisions. The appellant has therefore not incurred unnecessary expense but has secured the outcome that he had hoped for; the external colour scheme for The George can be retained.

9. For these reasons I conclude that the Council did not act unreasonably or cause the appellant to incur unnecessary expense in the appeal process. Consequently, an award of costs is not justified.

S M Holden

INSPECTOR