
Costs Decisions

Site visit made on 5 February 2016

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 March, 2016

Costs application in relation to:

APPEAL A: Appeal Ref: APP/R3325/W/15/3137408

APPEAL B: Appeal Ref: APP/R3325/Y/15/3138579

Acorn House, 7 Lansdowne Place, Wincanton, Somerset BA9 9FB

- The application in respect of Appeal A 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 in respect of Appeal B 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 applications are made by Mr and Mrs D Smith for full awards of costs against South Somerset District Council.
 - The appeals were against the refusals of the Council to grant planning permission and listed building consent for the erection of a natural stone wall to divide the garden, the formation of a vehicular access through an existing stone wall and the replacement of a rendered wall to natural stone.
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Decision

1. The applications for awards of costs in respect of both Appeal A and Appeal B are allowed in full in the terms set out below.

Reasons

2. The Council's Conservation Officer in his minute of 21 April 2015 saw no harm in providing a garden area to the property, making the point that a good sized garden has the potential to give the house a more sustainable future. The scheme was considered not to compromise Ash House. Forming a modest opening in the wall was considered acceptable. The front wall was considered to work as it would be read with the existing building as its backdrop. Elements of concern were removed from the scheme. The proposals were supported by both Planning and Conservation Officers.
 3. The Council did not follow this professional advice; greater weight was given to local objections. Councils may of course come to a different decision from that recommended by officers, but their decisions need to be based on evidence and clear reasoning; and to carry weight, local objections should be founded on sound planning and heritage grounds. In this case, on any reasonable assessment of the proposals, neither the Council's decisions nor the local objections stand up to scrutiny. The opening in the wall would cause much less than substantial harm to a hidden and less significant part of the heritage
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asset. The public benefits were clear, as correctly identified by the Conservation Officer. The idea that a stone front wall would introduce an alien material is obviously wrong on any inspection of the site and locality: the wall would be read in front of the main listed building, also of stone; the walls either side of the driveway into Lansdowne Place are constructed of stone; and stone is extensively used in the conservation area. It is absolutely evident from any reasonable assessment of the proposals that the proposed wall separating the gardens of Acorn House from Ash House would not harm the settings of the listed buildings or any appreciation of the town's historic development pattern.

4. This was not a matter of the Council coming to a different view from its officers on balance; rather, any fair analysis of the scheme in relation to the site and its surroundings demonstrates that the Council's decisions were unreasonable.
5. I conclude that the Council behaved unreasonably in refusing both applications and led the appellants to incur unnecessary expense in having to go to appeal. A full award of costs is justified in respect of both Appeal A and Appeal B.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to Mr and Mrs D Smith the costs of the appeal proceedings in respect of both Appeal A and Appeal B described in the heading of this decision.
7. The applicant is now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Jonathan Bore

INSPECTOR