



Costs Decision

Site visit made on 26 August 2022

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Costs application in relation to Appeal Ref: APP/C1625/W/22/3298295 16 The Old Crown, Market Street, Gloucestershire, Nailsworth, GL6 0BX

- 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 Elsid Selmani for a full award of costs against Stroud District Council.
 - The appeal was against the refusal of planning permission for 'Covered outdoor seating area in connection with an existing restaurant' without complying with a condition attached to planning permission Ref S.20/2064/FUL, dated 26 November 2020.
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Decision

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

Reasons

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application essentially relies on the fact that the decision of the Council's 'delegated panel' went against the advice of the Council's conservation officer and the case officer and failed to provide adequate reasons for refusing planning permission.
4. The PPG also indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In this case, I have noted the recommendation of the conservation and case officers. However, the decision is one which is a matter of judgement. The officer(s) that made up the 'delegated panel' were entitled not to accept the advice of wider professional officers so long as a case could be made for the contrary view.
6. It can be seen in the main decision that I disagree with the Council in relation to its findings on the main issue. Nevertheless, the decision rested on design matters which are often highly subjective issues. Furthermore, in refusing the application the evidence presented by the Council is suitably specific and detailed in relation to the perceived harm to the character of the building and linked to relevant associated policy. I note the perceived contradiction that a development can be deemed visually inappropriate, but still be considered not to harm the character and significance of the Conservation Area in which it is

sited. However, developments can be capable of having localised impacts, whilst still preserving the overall character and significance of heritage assets.

7. I am therefore satisfied that the Council has shown that it was able to substantiate its reason for refusal.
8. For the reasons set out above, I consider that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Consequently, having regard to all matters raised, an award for costs is not justified.

Lewis Condé

INSPECTOR