



Costs Decision

Site visit made on 2 November 2022

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Costs application in relation to Appeal Ref: APP/P1615/W/22/3300794 Monks Spout Cottage, Glasshouse Hill, May Hill, GL17 0NN

- The application is made under sections 78, 322 and Schedule 6 of the Town and Country Planning Act 1990, and section 250(5) of the Local Government Act 1972.
 - The application is made by Mr N Jackson for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for the erection of a replacement single-storey rear extension.
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Costs application in relation to Appeal Ref: APP/P1615/Y/22/3300799 Monks Spout Cottage, Glasshouse Hill, May Hill, GL17 0NN

- The application is made under sections 20, 89 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and section 250(5) of the Local Government Act 1972.
 - The application is made by Mr N Jackson for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of listed building consent for the erection of a replacement single-storey rear extension.
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Decision

1. The applications for an award of costs are refused

The Inspector's Reasons

2. The *Planning Practice Guidance* advises that costs may be awarded against a party who has behaved unreasonably, and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In this instance the applicant contended that a number of actions by or on behalf of the Council have been unreasonable.
4. Firstly, he said the Council failed to articulate whether the harm it found was substantial or less than substantial. The level of harm is not mentioned in the officer report, and to my mind this is an unreasonable action, as it is at odds with the approach to assessing the effect on a designated heritage asset that is outlined in the *National Planning Policy Framework* (the Framework). However, as the Council had undoubtedly found a harm, given the scale of the works it was reasonable to assume it would be less than substantial, and that appears to be the basis on which the applicant has proceeded. I am therefore not satisfied that this would have caused unnecessary expense.
5. The applicant also contended that the Council did not stipulate where on the scale of substantial or less than substantial harm the concerns were found.

Although the *Planning Practice Guidance* suggests clarification can be given as to where on the spectrum of harm it is considered the concern would be, that is not a requirement in the Framework, and so its omission is not a basis for unreasonable behaviour.

6. It was also said that, having found some level of harm, the Council failed to undertake a balancing exercise as required by Framework paragraph 202. Certainly I found no evidence for such a balance in the Officer Report, and no weighing of the benefits of the scheme that the applicant identified, and so again I find this unreasonable. However, whilst the applicant then stated that had such a balance been undertaken the Council might have come to a different view, given the nature of those benefits I have no basis to consider that would have been so. It has therefore not been shown this action caused unnecessary expense.
7. When taken as a whole the Council presented a reasoned and robust case with this appeal that appropriately articulated its concerns. I see nothing unreasonable in the Conservation and Design Consultant submitting his evidence alongside the Council's Statement of Case. That was the appropriate time for all representing the Council to send in their appeal submissions, and the applicant was not prejudiced as he had opportunity to respond. I also have no basis to find the Consultant's statement constructed a new case against this proposal. Rather, to my mind, it elaborated upon the comments already made in the officer report and the various emails that comprise the consultation responses.
8. Moreover, the Consultant's comments were not unduly detailed and disproportionate for a case of this type. It is for any party to submit whatever relevant information it wishes to support its case, and what was forthcoming was not unreasonable given the nature of the issues. In any event, much of the Consultant's submissions, such as the plan forms and the evolution of the dwelling, re-iterated information the applicant had seen necessary to submit in his own heritage submissions.

Conclusions

9. Accordingly, although I have found that the Council acted unreasonably by not identifying in its officer report the level of harm caused by the scheme or that it had conducted a balancing exercise, it has not been shown these actions resulted in unnecessary expense. I therefore conclude these costs applications should be dismissed.

JP Sargent

INSPECTOR