

Costs Decisions

Site visit made on 6 January 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Costs application in relation to Appeal A Ref: APP/J9497/W/22/3301905 Abbotswell House, 10 Crest Hill, Buckfastleigh TQ11 0AN

- 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 Ms Laura Hetherington for a partial award of costs against Dartmoor National Park Authority.
 - The appeal was against the refusal of an application for planning permission for alterations to kitchen and study.
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Costs application in relation to Appeal Ref B: APP/J9497/Y/22/3301907 Abbotswell House, 10 Crest Hill, Buckfastleigh TQ11 0AN

- 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 Ms Laura Hetherington for a partial award of costs against Dartmoor National Park Authority.
 - The appeal was against the refusal of an application for listed building consent for alterations to kitchen and study.
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Decisions

1. The applications are refused.

Procedural Matter

2. The applicant made a single costs application covering both appeals. However, as the costs application regime for planning and listed building consent appeals is addressed pursuant to the relevant discrete legislation, I have treated the applicant's submissions as two separate, albeit linked, costs applications.

Reasons

3. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may 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.
4. The applicant asserts that the Authority acted unreasonably in citing irrelevant policies and/or its policies and guidance in a vague manner without specifying which aspects of the scheme do not comply with specific aspects of the policies and guidance. The Authority has further inaccurately assessed the impacts of the proposal without evidence or objective analysis.
5. Strategic Policy 2.6 relates to light pollution, but it is clearly focused on proposals beyond settlements, and only external lighting sources. In my view, this does not include internal lighting which may bleed out of a building. Given

also that the appeal site is in Buckfastleigh, the Authority did not act reasonably in relying on this policy to sustain an objection to the proposal.

6. That being said, the applicant addressed this issue briefly within the main body of the statement of case and it was not an issue that influenced the outcomes of the appeals. Light aside, the Authority adequately substantiated its concerns about the visual effect of the rooflights in the relevant paragraph of the officer report. Just because rooflights are not referenced within the CA Appraisal, does not mean they may not potentially cause harm to its character or appearance. I have agreed with the Authority that they would in this particular case.
7. The Authority makes reference to several other policies. The development plan must be read as a whole and, by and large, the relevant aspects of the policies utilised in the Authority's reasons for refusal flow quite logically from the reasoning within the officer report. The applicant having to review referenced development plan policies and Design Guides and apply them to the appeal proposal is an inherent and routine part of the appeal process in any event, so cannot be considered to result in wasted expense in my opinion.
8. The Authority was not initially convinced of the extent of public benefits arising from the scheme and that was a reasonable stance, based on the relative paucity of quantitative evidence presented at the application stage. The appeal process allowed the applicant to take the opportunity to present more evolved evidence on the energy issue, which I have taken into account. The Authority did make somewhat left field references to potential tanking and below ground drainage, but these matters were again dealt with briefly by the applicant. They were ultimately modest and inconsequential aspects of the Authority's case which I consider to be part of the normal to and fro of the appeal process.
9. Assessment of the effects of development on privacy is to a degree reliant on a subjective judgment. Although I have again not agreed with the Authority on the privacy issue, logically, replacing a high-level window with one that users can look directly out from is bound to have a degree of effect. The Authority was not therefore manifestly unreasonable in exercising its planning judgment that the new window would harm the living conditions of the neighbours.
10. Accordingly, the Council's conduct does not constitute unreasonable behaviour that has directly resulted in substantive unnecessary or wasted expense in the appeal process, as described in the PPG. The PPG states that the parties in planning appeals normally meet their own expenses, and these are the circumstances present here. Costs awards are not justified.

Matthew Jones
INSPECTOR