



Costs Decision

Site visits made on 16 May and 13 June 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2023

Costs application in relation to Appeals Ref: APP/Q3305/W/22/3307851 and APP/Q3305/Y/22/3307855

Westholme House, Higher Westholme Road, Pilton, Shepton Mallet, Somerset BA4 4EW

- 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), and 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 Mr M Franklin for a full award of costs against Mendip District Council.
 - The appeals were against the refusal of planning permission and listed building consent to rebuild the stone boundary wall into buttresses.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the applications, although behaviour of the parties at this time can be taken into account.
4. The application for an award of costs has been made in writing and will not be repeated here in any detail. The appellant considers the Council failed to produce evidence to substantiate each reason for refusal on appeal, and made vague, generalised, and inaccurate assertions about the impact that were unsupported by objective analysis. It was unreasonable of the Council to disallow the use of new locally quarried stone, to object to the re-dressing of the recycled stone, and not to take account of the effects of weathering. The new wall closely resembles the existing wall, and the Council provided no reasonable explanation as to

what alternative construction ought to have been used. There is no intervisibility between the rebuilt wall and Westholme House, and evidence of harm to the setting of the listed building has not been provided, nor how the works harm the character and appearance of the area. Unnecessary and wasted expense has been incurred through having to lodge appeals.

5. My decision explains that I have found substantive reasons for allowing the appeals. The works have been undertaken and the stone has a conspicuously bright appearance, with the coursing and cock and hen top detailing evident, including its contrast to the historic walls either side. The Council have acknowledged the need to use new stone and accept that it will weather over time. The reuse of historic fabric would have been preferable to the use of new, and it was not remiss of the Council to require this.
6. The Council have not provided an appeal statement, relying upon the officer reports to support their case. An assessment of the works upon the character and appearance of the area has been included in these, albeit briefly. Similarly, only a brief assessment of the impact of the works upon Westholme House was provided, albeit more consideration has been given to the effect of the works on the wall. Such brevity would have been frustrating for the appellant, particularly as the Council did not engage in any discussion of alternative works. Notwithstanding this, the Council have explained their objections.
7. The consideration of applications involves matters of judgement that are at times finely balanced based on complex evidence. In this case the works raised several considerations, and the Council gave a different weight to these issues than the appellant. This was not unreasonable of the Council, and the decision to submit the appeals would have been one for the appellant to make.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

J J Evans

INSPECTOR