
Costs Decision

Site visit made on 5 September 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 21st September 2016

**Costs application in relation to Appeal Ref: APP/T3725/W/16/3150024
Plough Inn, Old Fosse Way, Eathorpe, Leamington Spa, CV33 9DQ**

- 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 Rugby Properties Ltd for a full award of costs against Warwick District Council.
 - The appeal was against the refusal of planning permission for renovation and extension to coach house outbuilding adjacent to the Plough (public house) to facilitate its use as a dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The National Planning Practice 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 the costs to incur unnecessary or wasted expense in the appeal process.
 3. The PPG makes it clear that a Council is at risk of an award of costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and if it fails to produce evidence to substantiate each reason for refusal on appeal.
 4. The Council determined the application with reference to the National Planning Policy Framework (the Framework) and confirms that the relevant policy regarding development in Green Belts was not saved within the Warwick District Local Plan 1996-2011 (2007). In the absence of relevant policies paragraph 14 of the Framework requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole.
 5. The Council has relied on the officer's report to support their reason for refusal. The report is brief and relies on paragraph 55 of the Framework. While I have agreed with the Council that the site is in a functionally isolated location, I have also found that it would lead to an enhancement of the immediate setting of the building. The Council's report offers no explanation as to why they consider that the proposal would not enhance the immediate setting of the building. Furthermore, there is no consideration of the statutory requirement
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to preserve or enhance the Conservation Area within which the appeal site is located. Furthermore the Framework requires that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. In the circumstances therefore I consider the Council has failed to provide any evidence to substantiate its reason for refusing the application, or considered the application against the Framework as a whole, thereby delaying development which should have been permitted.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Warwick District Council shall pay to Rugby Properties Ltd, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to Warwick 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

Zoe Raygen

INSPECTOR