
Costs Decision

Site visit made on 16 September 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2016

**Costs application in relation to Appeal Ref: APP/L1765/W/16/3151829
7 St Peter Street, Winchester SO23 8BW**

- 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 M Hendry for a full award of costs against Winchester City Council.
 - The appeal was against the refusal of the council to grant, subject to conditions, planning permission for change of use from an Office (B1) to a dwellinghouse (C3).
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Decision

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

Reasons

2. 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 or wasted expense in the appeal process.
3. The application and response were made in writing and have not been repeated here.
4. The Planning (General Permitted Development) Order 2015 as amended [GPDO] permits certain changes of use from office to residential. However, as accepted by all parties, that does not apply if the building is a listed building, which includes 7 St Peter Street. Therefore, any proposed change of use cannot be considered under the GPDO, but a planning application has to be made and the application considered against the council's development policies. This was the finding of the inspector in the appeal APP/L1765/A/13/2202937 where it was clearly stated 'however, it is a matter of fact that the new class of PD does not apply to listed buildings, so the appeal development requires planning permission', concluding the council was within its rights to attach more weight to its development plan.
5. The council did not behave unreasonably in considering the proposal as a planning application and applying its policies to the application and the GPDO has little relevance to that consideration apart from being a material consideration for which the decision maker decides the weight to be attached. Without the affordable housing contribution the proposal would not accord with the development plan, therefore the contribution is necessary to make the development acceptable in planning terms and would be reasonably related to it in accordance with the development plan policy and non compliance is justification for refusal. Text to Policy CP3 notes that the need to provide

additional affordable housing is one of the greatest challenges facing the District, suggesting that the council considers this a matter of considerable weight.

6. I acknowledge the government's aim in relation to the GPDO changes and in the change to written ministerial statement on affordable housing [WMS]. However, the weight to be attached to the WMS is again a matter for the decision taker; in that case it was the council. To my mind, given the challenge to the WMS and outcome in the court, the weight the council attached to the WMS was not unreasonable. Particularly, as soon as that decision was overturned this summer, the council reappraised its position and planning permission was granted on another application. I have considered the appellant's case that Policy CP3 does not apply to this proposal in the main decision, and rejected that argument.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

Graham Dudley

Inspector