
Costs Decision

Site visit made on 5 September 2016

by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI

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

Decision date: 17 October 2016

**Costs application in relation to Appeal Ref: APP/Y3425/W/16/3153077
Lock House Restaurant, Trent Lane, Great Haywood, Stafford ST18 0ST**

- 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 Mark Edwards for a full award of costs against Stafford Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use from restaurant/tea room to dwelling, including rear extension and garage.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can be awarded against a party who has behaved unreasonably and thereby caused the costs applicant to incur unnecessary expense in the appeal process.
 3. The applicant's case is substantive in nature. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.
 4. In this case the applicant believes that the Council misdirected itself in dealing with the application on the basis of an additional new dwelling house in the context of housing supply. The applicant believes that this is not a new dwelling as such but a proposal to change the use of an existing dwelling which has been a dwelling for many years as well as being used as a restaurant/tea room. Notwithstanding and in any event, the applicant also pointed out that *The Plan for Stafford Borough Part II* (TPSB Part II) should be afforded no weight given its status.
 5. I found that the property is in mixed use and that the change of use amounted to a new open market dwelling. Given that the TPSB Part II is at an advanced stage, I attached moderate weight to it in my decision. But this was not decisive to my decision. On this main issue I concluded that the combination
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of the property's location and the existing use that it performs would render the proposal acceptable in accessibility terms and on balance.

6. The applicant's second argument revolves firstly around the issue of permitted development rights under the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO) and secondly the robustness of the evidence presented on viability grounds, which the applicant considers demonstrates the untenable viability situation here. However, I fail to see the significance of the GPDO provisions in this case; the application was presented to the Council as an application for change of use of the premises in line with what was proposed. The evidence submitted with the appeal is on the basis of a change of use proposal. Contrary to the applicant's view, the evidence on viability was not strong with many issues unresolved. Having correctly assessed the current use as an important community facility, the Council in my view followed both local and national policies that require clear justification for its potential loss.
7. The third argument relates to the failure by the Council to enter into negotiations with the applicant over the design of the dormer windows. However, the dormer design was presented and was the subject of opposition from a number of interested and well informed groups. Whilst the National Planning Policy Framework encourages co-operation and dialogue, I have not identified any prejudicial failings in the handling of the application by the Council. The matter appears to have been raised if not by the Council then certainly by other parties during the application stage and it was available to the applicant to respond as part of the process, particularly given the sensitivities surrounding heritage assets at this location.
8. I see no reason either to believe that the Council did not correctly follow the duty enshrined in the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in this regard. The applicant will be aware that my attention was also drawn by interest parties and indeed the Council's own Conservation Officer to the proposed garage. Clearly, it was also my duty under the Act to undertake the statutory test for the development as a whole. On the matter of treating the objection to the dormer design by planning condition, I found that the use of a condition was not appropriate for the reasons stated in the appeal decision.

Conclusion

9. Therefore, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

Gareth W Thomas

INSPECTOR