
Costs Decision

Site visit made on 21 February 2017

by Rachel Walmsley BSc MSc MRTPI

Decision date: 04 May 2017

Costs application in relation to Appeal Ref: APP/P1045/W/16/3163696 The Ostrich Inn, Longford, Derby DE6 3AH

- 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 New River Property Trust No 4 for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the refusal of planning permission for change of use of existing public house (A4) to form a single residential property (C3).
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Decision

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

Reasons

2. The application is for a full award of costs in relation to the appeal. I have considered this application for costs in light of the Planning Practice Guidance (PPG). 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. Saved policy S12 is in two parts; stating that *planning permission for development which would result in the loss of a local shop or other important local facility or service will not be granted unless there are adequate facilities in the locality or it can be demonstrated that the existing use is no longer financially or commercially viable and there are no other viable means of maintaining the existing use.*
 4. Under Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, local planning authorities are required to *state clearly and precisely their full reasons for the refusal specifying all policies and proposals in the development plan which are relevant to the decision.* The Council considered the proposal contrary to the second part of saved policy S12 and provided reasons accordingly. For decision-making purposes, therefore, the Council acted reasonably in refusing the proposed development on the grounds of the conflict with saved policy S12.
 5. I note within the Council's Statement of Case at paragraph 3.5 that a brief reference was made to the appeal site being better used and more accessible than other facilities around. Whilst it would appear that this discussion related to the Council's assessment of the proposal against the first part of saved
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policy S12, the connection was not made between the two; the Council did not conclude that for this reason, the proposal would also be contrary to this part of the policy. In not making the connection between the two, one could assume that the appellant had met this part of the policy.

6. However, notwithstanding this, the Council did find reasonable grounds on which to refuse the planning application and justified this with adequate reasoning. On this basis I find that the Council did not behave unreasonably in considering the application and refusing the proposal for the reasons given.

Conclusion

7. I have found that unreasonable behaviour relating to the planning substance of the Council's decision did not result in unnecessary or wasted expense in the appeal process. I therefore conclude that a full award of costs, towards the expense of the appeal, is not justified.

R Walmsley

Inspector