The Planning Inspectorate

Costs Decision

Site visit made on 30 May 2017

by Tim Wood BA(Hons) BTP MRTPI

Decision date: 29th June 2017

Costs application in relation to Appeal Ref: APP/M1710/W/17/3167870
The Coach House, Stanford House, Standford Lane, Bordon, Hampshire GU35 8RG

- 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 and Mrs C Almond for a full award of costs against East Hampshire District Council.
- The appeal was against the refusal of planning permission for the use of the coach house as an independent dwelling.

Decision

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

Reasons

2. National Planning Practice Guidance (PPG) states that parties will normally be expected to meet their own costs in relation to appeals and 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 Council point out that the application for Costs was made late, after the date for final comments. It has been pointed out to me that an extension in the deadline for final comments was made due to delays in sending on the Council's statement to the appellant. In these circumstances, I do not intend to decline to determine the application for costs.

4. The Council refers to the absence of "exceptional circumstances" when refusing the appeal scheme. The appellants indicate that no such term appears in the Council's policies and the Council has imposed a stricter test than is necessary, pointing out that some of the relevant policies are permissive. I have set out in summary the policy context in my main decision. The Council appear to have taken as its starting point the most relevant policy in its most recently adopted plan, ie Policy CP19 of the JCS adopted in 2014. This policy operates a "general restraint" in order to protect the countryside for its own sake and states that the only development allowed for in the countryside will be for rural-related purposes. Other policies, including those within the East Hampshire District Local Plan of 2006, allow for certain types of development in the countryside, subject to criteria being met. From my own consideration of the case advanced by the Council, I consider that it is these other forms of development along with the associated criteria that are being referred to as

exceptions to the normal 'general restraint'. Thus, giving rise to the Council using the term 'exceptional circumstances', not denoting anything extraordinary but simple circumstances wherein these exceptions may apply.

5. Having given this matter careful consideration, I am satisfied that the Council has not sought to impose an unduly strict test on the appeal scheme. Furthermore, the use of the term "inappropriate development" does not appear to me to be an attempt to use a green belt test. Therefore, in relation to this matter, I do not consider that the Council has acted unreasonably.

6. Policy H7 of the EHDLP was not referred to by the Council in its refusal or in its assessment of the planning application. For their part, the Council responds that the appellant did not seek to draw support from it in the application documents. Nevertheless, the Council has given its comments in relation to this policy, which it considers to not support the scheme. I note the comments made by the Council in relation to the applicability of Policy H7 and their view that it is aimed at the physical subdivision of one building and not to circumstances of the kind found in this appeal. However, whilst I regard it as unfortunate that it was not referred to initially, this has now been addressed and it is clear that the Council would not have come to a different conclusion and so the need for an appeal would not have been altered.

7. In relation to Policy C14, the Council indicates that the specific criteria applicable to conversions to residential purposes were not specifically addressed by the appellant in the first instance and the Council states that these had not been met as no evidence had been submitted. Whilst I have agreed with the appellant that there is no need for specific evidence, I do not find that the Council's stance is unreasonable. Indeed, it could equally be argued that this policy does not apply as the conversion to residential purposes has already taken place.

Conclusions

8. Whilst I have agreed that it may have been unfortunate that consideration of the detailed criteria in Policy C14 were not undertaken by the Council at the initial stage, I consider that the Council have offered some argument in the appeal submissions. In the event, I have not agreed with their arguments but I consider that they have not acted unreasonably and it is evident that the appeal would not have been avoided if they had undertaken this assessment earlier in the process. Similarly, there is some justification for not assessing the proposal against policy H7 or for finding that it complies with it; I do not find unreasonable behaviour in this respect either.

9. Furthermore, the use of the term 'exceptional circumstances' does not betray the use of a stricter test than is necessary for this appeal. In the light of my findings, I conclude that there has been no unreasonable behaviour by the Council. Consequently, the application for an award of costs is refused.

S T Wood

INSPECTOR