
Costs Decision

Site visit made on 10 August 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2020

Costs application in relation to Appeal Refs: APP/B1740/W/20/3249954 and APP/B1740/W/20/3250135

The Old Pumphouse, Marl Lane, Fordingbridge SP6 1NU

- 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 Sean Kelly for a full award of costs against New Forest District Council.
 - The appeals were against the refusal of planning permission for change of use from storage lock up to single dwelling.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council correctly identified that the proposals would conflict with saved Policy DM20 of the Local Plan Part 2. However, there was no explicit reference within its evidence to the 'exception' test within saved Policy DM1 (c). Whilst this was a key omission, the officer report does indirectly address the policy criteria by discussing alternative uses and impacts on heritage significance.
4. The officer report also has regard to paragraph 79 of the National Planning Policy Framework which sets out exceptions to the policy that isolated homes in the countryside should be avoided. My reading of the evidence is that the Council does not consider the circumstances set out in criteria (b) and (c) to have been met. Specifically, it does not accept that residential is the optimal viable use for the building or that re-use of this redundant building would enhance its immediate setting. These were matters of planning judgement.
5. Similar judgement was necessary to assess the impact on the character and appearance of the building and its significance as a non-designated heritage asset. Notwithstanding its expressed view that insufficient details had been submitted, the Council was able to form an opinion on the planning merits of the proposed extensions and alterations in **Appeal B**, with cross references to development plan policy. I am satisfied that its arguments were robust, and that the second refusal reason on 19/11/17 was properly evidenced.

6. The Council explains that the phosphate neutrality issue has arisen since its determination of the applications, as a direct result of submissions from Natural England who were concerned that appropriate assessments based on the River Avon SAC – Phosphate Neutral Development Interim Delivery Plan were no longer robust. It was not unreasonable for the Council to flag up this issue when it became aware of the problem, given the importance attached to compliance with the Habitats Regulations.
7. The main allegation is that the Council has behaved unreasonably by failing to approve proposals that accord with an up-to-date development plan and the National Planning Policy Framework. Since I have concluded that both appeals should be dismissed it follows that the costs incurred in preparing evidence were a necessary part of the appeal process. There are no matters which would justify a partial award of costs.
8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Robert Parker

INSPECTOR