
Costs Decision

Site visit made on 15 February 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2021

Costs application in relation to Appeal Ref: APP/D1265/W/20/3260010 Rear of 31 Station Road, Swanage BH19 1AD

- 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 R Hartle for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission to convert store to residential unit.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 took some time to determine the application and I understand that the appellant was under the impression that permission would ultimately be forthcoming. However, whether or not the reasons for the delays were unreasonable, different behaviour would not have led to an alternative decision or avoided the appeal. They do not, therefore, amount to unnecessary or wasted expense in the appeal process.
4. There is no substantive evidence of unreasonable behaviour in respect of the merits of the second reason for refusal relating to living conditions. As such, a full award of costs cannot be justified, but I have considered whether a partial award may be, in respect of the first reason.
5. Following the submission of additional information concerning the use of the appeal building, the Council's planning policy officer withdrew their objection. However, that officer was a consultee to the application providing advice to be considered by the case officer, and I have no reason to conclude that their stance of no objection should automatically result in the grant of permission.
6. Moreover, and notwithstanding the policy officer's overall conclusion, their revised consultation response continues to refer to uncertainties over the building's lawful use and its contribution to the wider vitality and viability of Swanage town centre. The policy officer advised that 'some weight' should be given to the appellant's evidence about the use and that greater weight could be given if the lawful use could be clarified.

7. It is not clear to what extent the case officer considered the appellants evidence. It would have clearly been helpful in this case if some analysis had been provided in the officer's report, especially as that report sets out that a previously adopted approach was to be maintained. Nevertheless, the Council's appeal statement indicates that the evidence was not in an appropriate form to satisfy the Council. Ultimately, the weight to give to a material consideration such as this is a matter of judgement, not unreasonable behaviour.
8. In defence of the appeal, the Council's evidence does make reasoned submissions about the importance of storage space. There is also evidence concerning the role of the appeal building in supporting the vitality and viability of the town centre. Accordingly, while I have found that a conflict with the development plan would not result, and that a nearby case is not directly comparable, the Council's position does not amount to unreasonable behaviour.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Bale

INSPECTOR