

Costs Decision

Site visit made on 3 February 2021

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2021

Costs application in relation to Appeal Ref: APP/D1265/W/20/3261866 50 Cheap Street, Sherborne DT9 3BH

- 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 J Benjamin for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for 'Proposed Extension and Alterations and Change of Use to Listed Building 50 Cheap Street existing bank into commercial and residential units'.
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Decision

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

Reasons

2. The national Planning Practice Guidance¹ (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG² identifies different types of behaviours, which may give rise to a substantive award against local planning authorities.
3. The applicant is concerned that the Council acted unreasonably by reason of the lack of weight given to the 'incongruous nature' of the existing link as part of the decision-making process. It is also considered that the Council has failed to justify the identified harm with regard to the proposed dormer windows, despite the prevalence of such features in the locality. With regard to the rear extension, the applicant has sought to address the concerns raised by the Council during the application process. The applicant argues that the Council has acted unreasonably in failing to fully support the reason for refusal in this regard.
4. Furthermore, the applicant feels that the Council has not given due consideration to the detailed Heritage Assessment, which was submitted in support of the appeal scheme. It is also considered that the views adopted by the Council in respect of the link, the dormer windows and the rear extension are not consistent with the representations made by Historic England.
5. No rebuttal has been submitted by the Council in response to this application for an award of costs. Having regard to the Council's submissions, I am nevertheless satisfied that it has adequately substantiated its concerns and identified conflicts with the relevant adopted development plan policies.

¹ Paragraph: 030 Reference ID: 16-030-20140306.

² Paragraph: 049 Reference ID: 16-049-20140306.

6. Although I note the concerns raised by the applicant regarding the Heritage Statement, this document was referred to within the Case Officer's report for the listed building consent application. I have therefore no reason to believe that it was not afforded due consideration in the Council's assessment of the proposal.
7. Furthermore, the Council appears to have appropriately assessed the effect of the proposed development and works on the special interest of the Grade II listed building and the Sherborne Conservation Area, in accordance with the statutory requirements set out by the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. The appearance of the existing link within the street scene and the effect of the proposed development and works are largely matters of planning judgment for the decision-maker. Whilst Historic England responded favourably to certain amendments, there was no overwhelming support for the appeal scheme. Additionally, it has to be noted that, whilst the Council has to take into account any representations received, it is not nevertheless bound by the responses from statutory consultees.
9. The Council found that the harm which would be derived from the appeal scheme would be less than substantial, but I am not certain that all the public benefits identified by the applicant were taken into consideration as part of the heritage balance. Notwithstanding this, I consider that it is unlikely that these benefits would have been found to outweigh the identified harm, thus leading to a different outcome, and preventing the appeal.
10. Overall, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. On this basis, I conclude that an award of costs is not justified.

S Edwards

INSPECTOR