



Costs Decision

Site visit made on 16 March 2021

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 May 2021

Costs application in relation to Appeal Ref: APP/C1435/W/20/3254709

High Pastures Barn, Graywood Road, East Hoathly, East Sussex, BN8 6QL

- 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 Sam Bradford (High Pastures Development Ltd) for a full award of costs against Wealden District Council. .
 - The appeal was against the refusal of planning permission for demolition of some of the existing buildings. Conversion of one existing building and extension to it to create a single dwelling house with detached garage.
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Decision

The application for an award of costs is refused.

Reasons

1. 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.
2. As well as surveyors and architect's fees associated with preparing the appeal statement, the applicant has included a claim for costs relating to those associated with alternative living accommodation. Claims can only be made for costs directly related to an appeal, for example; time preparing for an appeal and the use of consultants to provide detailed technical advice. As such, it would not be possible to award costs associated with alternative living accommodation.
3. There are numerous emails/letters between the Council's officers and the appellants representatives. From them it can be seen that between 2018 and January 2020 the Council was able to place weight on its emerging Local Plan and in particular policies RAS2 and RAS3. Whilst I do not have copies of these policies it appears that, in principle, they could support a new build development where a realistic and demonstrable fall-back position was demonstrated, and it was demonstrated that there was no market demand for the existing commercial units on the site.
4. On 11 February 2019 the Council confirmed this in an email and suggested that the applicants apply for a Prior approval. This was on the basis that a genuine fall-back position had not been demonstrated; the site was actively being used for business purposes; and the applicants had advised that they did not want to have a residential conversion scheme.

5. The applicant's agents subsequently stated that the use of the buildings for storage and distribution had taken place for at least 4 years. On 18 February 2019 the Council officer pointed out that the applicant would need to establish the lawfulness of the uses. Also, that to draw on policy RAS2 it would be necessary to provide evidence of a firm intention and ability to implement a change of use under Class P Prior Approval. This was reconfirmed on 15 March 2019.
6. The application under Class P Prior Approval was not submitted until 17 April 2019, some two months after the Council had requested the application. Whilst it is unfortunate that the prior notification request was not formally determined prior to the cessation of Class P, the Council cannot reasonably be criticised for a delay in dealing with it.
7. On 14 January 2020 the Council advised the applicants agents that the draft Local Plan had failed and that the application would now need to be assessed having regard to the existing Local Plan and Core Strategy and the Framework. This will have resulted in a complete reappraisal of the scheme as policies RAS2 and RAS3 were no longer applicable.
8. On 11 February and March 2019 the officers advised that the revised drawings did not address the officer's concerns regarding scale and height and that the officers considered a single storey scheme would be most appropriate on this site. On 30 January 2020 they advised the applicant's agent that both the original and revised scheme would attract a recommendation of refusal.
9. With regard to the submission of revised plans the Council's officers asked the applicants agents to confirm if they wanted to pursue the original or revised drawings on 11 February 2019 and twice on 30 January 2020. They subsequently provided advice on their interpretation on various parts of the Framework and confirmed that both the Framework and policy DC8 of the Local Plan dealt with conversion schemes.
10. Overall, I find that the officers have been proactive and helpful. The withdrawal of the Local Plan and the cessation of Class P were outside their control and will have impacted on how the scheme was assessed and resulted in delays in dealing with the application. Both parties appear to be responsible for further delays in determining the application and this appears to be largely related to requests for additional information and the concerns expressed relating to the two storey element of the scheme.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Elizabeth Lawrence

INSPECTOR