



Costs Decision

Site visit made on 17 April 2021

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2021

Costs application in relation to Appeal Ref: APP/K2420/W/20/3264876 The Reservoir Inn, 286 Main Street, Thornton, Leicestershire LE67 1AJ

- 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 David Miles for a full award of costs against Hinckley & Bosworth Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of public house (Class A4) to five self-contained flats (Class C3).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) 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 process¹.
3. There are three claims to assess. Firstly, whether the Council in carrying out its planning balance prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Secondly, whether the policies cited by the Council in its decision notice were directly relevant. Thirdly, whether the Council incorrectly assessed the significance of The Reservoir Inn, a non-designated heritage asset, by taking into account a factor that was not relevant when it applied the planning policies of the National Planning Policy Framework ('the Framework') relating to a heritage asset.
4. In terms of the first claim, by any reasonable estimate the public house is of limited local heritage significance and the harm caused by its change of use to flats would be small and clearly outweighed by the benefits of bringing the building back into beneficial use. In refusing permission on the basis of the harm to its significance, due to the loss of its historic community use, outweighing the benefits of the proposal, the Council acted unreasonably and the appellant incurred the unnecessary expense of the appeal.
5. Turning to the second claim, policy DM12 of the Hinckley & Bosworth Site Allocation and Development Management Policies Development Plan Document (SADMP) seeks to protect heritage assets. Policy DM 11 of the SADMP details how development proposals affecting heritage assets will be assessed. As it is common ground between the parties that The Reservoir Inn is a non-designated heritage asset (NDHA), both policies are relevant to the application.

¹ Paragraph: 028 Reference ID: 16-028-20140306, 'Appeals', 'Why do we have an award of costs?'

6. In terms of the last claim, the Council refused permission because, in its judgement, the proposal would result in the total loss of the historic and purposeful community use of the building harming its significance. Community use and associated value is excluded from the definition of significance for heritage policy given in the glossary to the Framework. However, as I have explained in the appeal decision, it can contribute to the historical interest of an asset. As a result, the Council did not, in principle, act unreasonably by considering the implication of the proposal on the historic community use of the building when assessing the effect of the scheme on the significance of the asset. Where it did act unreasonably, as I have explained above, was in balancing the harm that would be caused, having regard to the significance of the asset, against the benefits of the proposal.
7. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated. An award of costs is therefore justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Hinckley and Bosworth Borough Council shall pay to Mr David Miles, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Hinckley and Bosworth Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Ian Radcliffe

Inspector