

Costs Decision

Site visit made on 23 July 2021

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2021

**Costs application in relation to Appeal Ref: APP/D1265/W/21/3276099
Sheaf of Arrows PH (formerly Rest of Welcome), Yeovil Road, Melbury
Osmond, Dorchester, Dorset DT2 0NF**

- 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 Mrs Theresa Roads for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for change of use public house/dwelling to dwelling.
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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 considers that the Council acted unreasonably in preventing or delaying development which should clearly be permitted, and in insisting that a year's marketing for the public house premises is essential for the determination of the appeal scheme. It is also alleged that the Council acted unreasonably in insisting that any public house is, by definition, a local community building, despite this not being stated in statutory policy. Furthermore, the applicant is of the view that the Council failed to respond meaningfully to the policy interpretations put forward during the course of the application.
4. Planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this particular case, Policy COM3 of the West Dorset, Weymouth and Portland Local Plan 2015 (LP) seeks to resist the loss of local community facilities, which is only considered permissible in specific circumstances.
5. The requirements in respect of proposals leading to the loss of local community facilities are clearly articulated within the development plan. Within its submissions, the Council clearly explained why the appeal building was regarded as a local community building, particularly as the supporting text to the LP identifies public houses as one of these facilities. It was therefore

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

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

reasonable for the Council to assess the proposal having regard to the requirements of Policy COM3 in particular, and even though the list of local community buildings and structures is not included within the statutory policy.

6. The Council's assessment of the proposal relied on the available evidence which, in this particular instance, lacked a comprehensive marketing exercise to demonstrate that the premises are no longer viable to operate as a public house or an alternative community use. Furthermore, I have no reason to believe that the Council did not have regard to the policy interpretations put forward by the appellant or acted unreasonably, simply because it reached a different conclusion.
7. Given the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. On this basis, an award of costs is not justified.

S Edwards

INSPECTOR