



Costs Decision

Site visit made on 8 February 2022

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 24th February 2022

Costs application in relation to Appeal Ref: APP/Y9507/W/21/3278658 Smiths Farm, Worldham Hill, East Worldham, Alton, GU34 3AT

- 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 Tessa Godbert for an award of costs against the decision of the South Downs National Park Authority.
- The appeal was against a refusal of planning permission for conversion of existing mixed use building (brewery and agricultural) to a mixture of the following uses:
 - Conversion of front part (former brewery) to residential dwelling
 - Granny Annex ancillary to Smiths Farm including new window opening, replacement of an existing window with a pair of French doors and one new door opening
 - Conversion of (part) upstairs to a yoga/fitness studio/meditation room
 - Ancillary garaging/storage to Smiths Farm
 - Drying out of Oak (seasoning) is to be carried out in the two remaining areas of the building at first floor
 - Use of second barn as additional parking area.

Decision

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

Reasons

2. The Planning Practice Guidance (the 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 process. The PPG sets out what type of behaviour may give rise to a substantive award against a local planning authority.
3. The appeal site is within the South Downs National Park (the SDNP). It contains a larger building which, for simplicity, I have referred to as Building One and a smaller one which I have referred to as Building Two.
4. The appellant considers the Authority unreasonably refused permission because they applied the wrong policy for the conversion of the brewery part of Building One and that refusing permission was inconsistent with allowing the conversion of an agricultural building to an open market dwelling at Manor Farm planning Ref SDNP/21/03474/FUL. The Authority acted unreasonably by not supporting the re-use of the buildings and insinuating that allowing the proposal would result in pressure for development in the countryside that would otherwise require such a location. A full award of costs is sought.
5. The proposals for Building One include a variety of uses that are subject to different, and in parts overlapping, policies of the South Downs National Parks

Local Plan (the LP). Without repeating all the reasoning in my Appeal Decision, as the site is not within or near a defined settlement, I found conflict with the thrust of the Policy SD25 of the LP in expecting most development to be within Settlement Boundaries. Exceptionally development outside a Settlement Boundary is permitted by Policy SD25(2) subject to specified criteria. I found conflict with Policy SD25(2)(a)(b)(c) in respect of all the proposed uses.

6. Policy SD25(d) provides for an appropriate use of previously developed land that conserves or enhances the special qualities of the SDNP. I found that only a small part (the former brewery) of Building One amounts to previously developed land. It was not unreasonable to consider other Policies in the LP to determine whether the proposed market housing was the most appropriate use in the context of Policy SD25(d). However, applying the cascade in Policy SD41(1)(g) to the change of use of the former brewery to a dwelling was muddled reasoning and I disagreed with the Authority's conclusion that LP Policy SD3(3), relating to retention of all employment sites and the need for marketing, does not apply to this part the proposal.
7. Manor Farm is close to the Settlement Boundary and the Officer Report indicates that more evidence was put forward by that appellant in relation to consideration of alternative more appropriate uses. I concluded the case did not set a precedent for the proposed dwelling in the appeal before me. I find no inconsistency on the part of the Authority in this respect.
8. Policy SD41 does apply to the conversion of redundant agricultural buildings outside of settlements to alternative uses in certain circumstances including being the most appropriate viable use according to the cascade set out at SD41(1)(g). It was not unreasonable of the Authority to consider whether the proposed uses were the most appropriate ones and I saw no evidence from the appellant of the likely viability of the uses set out in the cascade. As a matter of judgement, even in the absence of such evidence, I found it unlikely that the agricultural part of Building One would easily lend itself to the uses identified by the Authority as being more appropriate. Although I found differently, the Authority were entitled to conclude that there would be a risk that elsewhere there may be pressure for tourism related development, or development that specifically needs a countryside location, and which could otherwise have been accommodated in the Buildings. However, these are matters of judgement and the Authority were entitled to judge differently.
9. I find unreasonable behaviour in the muddled reasoning about the Policies relating to the proposed dwelling. However, I find no inconsistency in comparison with the Manor Farm decision or unreasonable behaviour in considering that allowing the proposal might result in pressure for development elsewhere in the countryside. The Authority were entitled to judge that the proposal taken as a whole should be refused. Even though the overall reasoning could have been more clearly expressed in relation to the different uses I find the appeal could not have been avoided.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

S Harley

INSPECTOR