The Planning Inspectorate

Costs Decision

Site visit made on 20 June 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Costs application in relation to Appeal Ref: APP/X3540/W/22/3290649
7 Sea Road, Felixstowe IP11 2AU

- 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 Sea Road Developments for an award of costs against East Suffolk Council.
- The appeal was made against the refusal of planning permission for conversion of ground floor commercial unit to provide new homes, including minor ground floor infill.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The applicant's basis for claiming full costs relates to the Council's alleged incorrect interpretation and implementation of its own development plan policy. This relates specifically to Policy SCLP4.4 of the Suffolk Coastal Local Plan (2020), which requires evidence to demonstrate that the premises have been marketed for a sustained period of 12 months. The applicant considers that it is not reasonable to require evidence of marketing beyond the 12 month period required by the policy.

4. The Council's concern is that the property was marketed during a period of unusual economic circumstances, particularly related to the Covid-19 pandemic and that an additional period of at least 12 months marketing should be undertaken.

5. It is generally accepted that the circumstances resulting from the pandemic were highly exceptional, including periods of significant economic inactivity and uncertainty. Given these highly exceptional circumstances, it is not unreasonable in my view for the Council to have regard to them as material to its interpretation of Policy SCLP4.4. Moreover, had the Council accepted that the marketing met the requirements of the policy it is not possible to infer that it would have reached a different decision and, therefore, negated the need for

the appeal and related costs involved. Policy SCLP4.4 includes three separate criteria, which are all required to be met with regard to permitting an alternative use.

6. This is clearly reflected in the decision notice, which refers to the Council's concerns about marketing as well as the conflict with criterion b) of the policy, where the Council indicates that it has also not been demonstrated that loss of the commercial floorspace would provide a substantial planning benefit. In addition to this the Council also determined that the proposal is contrary to Policy SCLP12.14, specifically that the loss of the commercial space would also not support resort related uses on the Sea Road frontage.

7. Therefore, taking these findings as a whole, there is no basis for me to conclude that the Council's approach with regard to this proposal amounted to unreasonable behaviour on its part.

8. Accordingly, having considered this costs application on its merits, for the reasons given I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

J Bell-Williamson

INSPECTOR