



Costs Decision

Site visit made on 14 February 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

**Costs application in relation to Appeal Ref: APP/J3720/W/22/3305485
Compton Scorpion Farm, Compton Scorpion Barn, Compton Scorpion Road,
Compton Scorpion, Ilmington, CV36 4PJ**

- The appeal is made under section 78 of 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 Ms Lowdy Brabyn against the decision of Stratford-on-Avon District Council.
- The appeal was against the refusal of the Council to grant planning permission for 'Conversion of West Hill Barn buildings into a single dwelling. Restore and repair the existing barn structures and walled yard and carry out restorative and enhancing landscape measures.'

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states that irrespective of the outcome of an appeal, costs may only 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 associated appeal process. The same guidance makes it clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Failing to produce evidence to substantiate a reason for refusal on appeal, or making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, are cited as examples and are reflected in the applicant's claim. The submission also claims that the proposal complied with the development plan and should have been permitted and the necessary appeal has caused the applicant delay and unnecessary expense.
3. It has been put to me by the applicant that planning permission should have been granted as the Council confirmed that the proposal complied with Policy CS.20 of the Stratford-on-Avon District Core Strategy 2011 – 2031 (CS). However, amongst other aspects, CS Policies AS.10, CS.9 and CS.11, Ilmington Neighbourhood Plan Policy DP.1 and Cotswold AONB Management Plan Policies CE1 and CE3 set out that all proposals must respect and enhance the rural character and local distinctiveness of the area and that conversions are undertaken in a manner that is appropriate for their character and setting. Whilst some of these policies are not directly related to conversion proposals, they are nonetheless relevant to the overall acceptability of the proposal.
4. Additionally, the Stratford-on-Avon District Council Development Requirements Supplementary Planning Document (2018) (SPD) has been adopted by the Council and thus is a material planning consideration that must be taken into

account when determining any proposal. I do not find that the Council gave higher weight to the SPD, however it was considered in combination with other local planning policies. Together, this led to the refusal of the proposed development.

5. As such, and this is clearly set out in the Council's Officer Report, that whilst the proposal may comply with one policy, it is contrary to a number of other policies that are relevant to protecting the character and appearance of the area and the Cotswolds AONB.
6. With regards to the reason for refusal relating to highway safety, I have been provided with additional evidence in the form of speed information and discussions with the Highways Authority. Whilst Paragraph 38 of the National Planning Policy Framework (the Framework) states that Councils should "work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area", this does not mean that the Council is obliged to repeatedly request information.
7. From the submitted evidence, whilst there were some initial problems with the Highways Authority response not appearing on the Council's website, this appears to have been resolved once highlighted to the Council and the applicant notified of this on 11 February 2022. It appears further discussion was undertaken on the proposed development and an extension of time agreed, with the decision being issued on 8 March 2022. It is my understanding based on the submission that the information I have been provided with was not before the Council at the time of their decision.
8. Whilst I have reached a different decision to the Council regarding the matter of highway safety, the Council did not have before them the speed information which led to further discussion with the Highways Authority. As this information was necessary to assess whether the provided visibility splays were acceptable, this information could not have been conditioned. As such, I consider that the concerns of the Council with regards to highway safety were reasonable.
9. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the delegated report which adequately sets out how the proposal, in the Council's opinion, would conflict with relevant adopted planning policies. Accordingly, I am satisfied that the Council's determination of the application and reasoning were credible and it was entitled to reach the decision it did.

Conclusion

10. For the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR