The Planning Inspectorate

Costs Decision

Hearing Held on 23 May 2023
Site visit made on 24 May 2023

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2023

Costs application in relation to Appeal Ref: APP/L3245/W/23/3316833
The Mill, Clee St Margaret, Craven Arms, Ludlow, Shropshire SY7 9DT

- 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 C/o Savills for a full award of costs against Shropshire Council.
- The hearing was in connection with an appeal against the refusal of planning permission for Conversion & Extension to the Mill House, the Conversion of the Bakehouse to an Annexe - change of use, the Restoration of the Corn Mill to working order, the installation of a Bat House and associated external works.

Costs application in relation to Appeal Ref: APP/L3245/W/23/3316832
The Mill, Clee St Margaret, Craven Arms, Ludlow, Shropshire SY7 9DT

- The application is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The application is made by C/o Savills for a full award of costs against Shropshire Council.
- The hearing was in connection with an appeal against the refusal of listed building consent for Conversion & Extension to the Mill House, the Conversion of the Bakehouse to an Annexe - change of use, the Restoration of the Corn Mill to working order, the installation of a Bat House and associated external works.

Decision

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

The submissions by Savills

2. There was no evidence from a heritage expert. All the specialists as well as the planning case officer agree that it should have been supported. The evidence does not substantiate the reasons for refusal and the Council's Statement of Case (SoC) had only 7 paragraphs focussed on why the scheme was not acceptable.

3. There were no technical objections to the application and the reason for refusal was drafted to reflect Members views unsupported by professional evidence.

4. The Council make generalised criticism of the scheme including reference to form and disproportionately large scale which detract from the linearity and humble character. There is no detail why the form and scale are harmful. The

characteristics of the site including the topography and visibility were not appreciated.

5. There is no assessment of the significance of the heritage assets in the Council's SoC, which contrasts to the Appellant's evidence. In addition, the important components of the setting of the assets would remain unaffected due to the siting.

6. The Council did not consider the need to facilitate the preservation of the assets which the proposal offers. The Council failed to balance the public benefits in the same process as their Conservation Officer and paragraph 202 of the Framework[1].

7. The reason for refusal is poorly worded. The site is not a readily visible feature from other parts of the Conservation Area and is peripheral. The decision notice makes reference to setting and not as actually within and part of the designation.

8. There is no assessment of how the scheme accords or conflicts with the Development Plan.

The response by Shropshire Council

9. The case officer's recommendation was on balance and the Committee Members were entitled to come to a different view. It is a subjective judgment. The Committee saw the site and carefully considered the proposal.

10. The reason for refusal clearly expresses the impact of the proposal.

11. The decision notice refers to the relevant planning policies.

12. The Committee Members appreciated the public benefits of the proposal and took them into account.

Reasons

13. The Planning Practice Guidance 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.

14. The 1990 Act[2] places a statutory duty to consider the Listed Buildings and the Conservation Area. The decision notice acknowledges they warrant great weight, which shows the Council had this requirement in mind at determination.

15. The reason for refusal refers in part to the size of the extension. This is not an unreasonable observation as the Appellant's Heritage Proof of Evidence[3] acknowledges: 'the scale of the extension means that it will substantially increase the footprint of the Mill House'.

16. The submitted heritage impact assessment[4] notes: 'the north-eastern side of the Mill House will significantly alter with the new extension'. As I found in the

[1] National Planning Policy Framework
[2] The Planning (Listed Buildings and Conservation Areas) Act 1990
[3] Paragraph 5.10
[4] Page 46

main decisions, this elevation has interests in the cat-slide dormer and chimney and retains its vernacular characteristics. The extension would be harmful.

17. The heritage impact assessment[5] also suggests that a very low level of harm will result. Thus, it still found some harm which has to be considered. It is also apparent that the Council's Committee Members considered the Case Officer's report. This records[6] the views of the Council's Conservation Officer that there was some harm to the significance of the listed building but that it was suggested as very low level and offset by the heritage and public benefits.

18. The extent to which the proposal would detract is a matter of judgement, rather than a precise science. Similarly, the exercise of balancing harm and public benefits is also a matter of judgement. The reason for refusal acknowledges the benefit to restore the Corn Mill, which demonstrates that the Council did undertake a balance of the harm with the public benefits. Similarly, whilst the SoC was succinct it confirms the balancing approach the Committee members undertook.

19. The decision notice makes reference to the humble nature of the buildings. This is an objective term reflecting their simplicity and highlighting one of the features of the significance and special interest of these vernacular buildings. The decision notice also refers to simple linearity of the house, which is also an objective characteristic against which to consider the proposal.

20. The decision notice refers to the impact as detracting. This is also an objective term. It was used comparatively with the existing significance and special interest. At the Hearing this was also elaborated in terms of the typical buildings of the locality.

21. The Council at the Hearing explained in their view the glazed flat roof would be harmful, which was well articulated in detail.

22. Whilst the decision notice was erroneous in the reference to the setting of the Conservation Area, the fact that the appeal site is a component warrants greater consideration.

23. There was no submitted evidence from the Council of how the scheme accords or conflicts with the Development Plan. However, the position on the most important policies was clear during the Hearing and allowed me to come to a conclusion on the proposal in relation to the Development Plan as a whole.

Conclusion

24. For the above reasons I conclude that the Council has not acted unreasonably, and that the applicant has not been put to wasted time and expense in pursuing the appeal. Therefore, an award of costs as described in the Planning Practice Guidance is not justified.

John Longmuir

INSPECTOR

[5] Page 46
[6] Paragraph 4.1.2