



Costs Decision

Site visit made on 8 November 2023

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Costs application in relation to Appeal Ref: APP/D1265/W/22/3309139 43/43A East Street, Blandford Forum DT11 7DX

- The application is made under sections 78, 322 and Schedule 6 of the Town and Country Planning Act 1990, and section 250(5) of the Local Government Act 1972.
- The application is made by Mr Steve Thorne for a full award of costs against Dorset Council (the Council).
- The appeal was against the refusal of planning permission for the conversion of the building to provide residential apartments and reconfigured the retail space (Class E), external alterations including extension over outbuilding at first floor level; new doors, windows, rooflights and internal remodelling.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. While the Council contends that paragraph 6.56 of the supporting text to Policy 12 in the *North Dorset Local Plan Part 1* means the sole aim of the policy is to resist the loss of Town Centre uses, that is not a view I have shared in the appeal decision. Rather, I have found that the specific wording of the policy in connection with Primary Shopping Frontages only, rather than collectively in relation to both Primary and Secondary Shopping Frontages, seeks only the loss of retail units within Class A1 of the *Town and Country Planning (Use Classes) Order 1987* (UCO) as it existed in 2016.
4. Furthermore, I have not shared the Council's view that, since the changes to the UCO in 2020, it was pragmatic to interpret Local Plan Policy 12 to include all the uses in the new single Class E when assessing this loss of ground floor commercial floorspace in the Primary Shopping Frontages. This is because such an approach broadened the extent of the original policy unduly. Moreover, it did not appear to accord with the more recent *Blandford+ Neighbourhood Plan (Modified Plan)* as that appears to adopt a different approach to addressing the various uses in Class E.
5. To my mind the Council cannot make the development plan mean whatever it would like it to mean. I consider it clear that the policies, as written, do not restrict the change of use of a restaurant in the Primary Shopping Frontage or Area. By taking a contrary position, I am of the opinion the Council acted unreasonably.

6. I accept that, having perceived a development plan conflict, the Council was then seeking to explore whether there could be a departure from policy by securing marketing information, and so those actions, of themselves, were not unreasonable. However, that does not change my view that finding a policy conflict where none has been shown was unreasonable, and so resulted in the applicant incurring unnecessary expense in pursuing the appeal.

Conclusions

7. Accordingly, I conclude that unreasonable actions resulting in unnecessary expense have been demonstrated, and so the award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dorset Council shall pay to Mr Steve Thorne, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Dorset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

JP Sargent

INSPECTOR