



Costs Decision

Site visit made on 14 December 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Costs application in relation to Appeal Ref: APP/Y3940/W/22/3312433 Treoaks, Butts Lane, Kilmington, Warminster BA12 6RB

- 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 Mr & Mrs K & T Day for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for conversion of agricultural workshop/storage building to form a 2-bed dwelling with associated alterations, parking, and amenity space, utilising a new vehicular access already granted planning permission under reference PL/2021/10977.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 031 of the PPG states that unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.
3. Paragraphs 047 and 049 of the PPG sets out some examples of unreasonable behaviour by local planning authorities. The applicant considers that the Council has exhibited unreasonable behaviour on a number of these.
4. In regard to the first reason for refusal, the Case Officer's Report is vague in regard to which criteria of Core Policy 48 of the Wiltshire Core Strategy (2015) (the Core Strategy) the proposal would conflict with. However, whilst the Council's Statement of Case provides slightly more clarity as to why the proposal did not comply with Core Policy 48, I agree that a greater assessment against this policy could have been carried out by the Council in order to substantiate the reason for refusal, which is unreasonable behaviour. However, I have carried out my own assessment and concluded that the proposal would be contrary to Core Policy 48. Therefore, any ambiguity by the Council has not resulted in any unnecessary or wasted expense in the appeal process.
5. Furthermore, it is recognised that Core Policy 48 only requires development to 'preserve' the character of the existing building. However, given that the proposal also lies within the Cranborne Chase and West Wiltshire Downs National Landscape, paragraph 182 of the National Planning Policy Framework (2023) (the Framework) requires development to conserve and enhance the landscape and scenic beauty of such areas. Therefore, I do not consider that

the Council has behaved unreasonably in considering whether the proposal would enhance the existing building or wider landscape.

6. In regard to the second reason for refusal, it has been accepted that a greater assessment against Core Policy 48 could have been carried out. However, the Council concluded that the proposal was not a policy compliant conversion under the Policy. Therefore, it was not unreasonable for it to conclude that the proposal was not 'planned development', and therefore did not benefit from the Memorandum of Understanding with Natural England, which is intended to offset all planned residential development within the River Avon Special Area of Conservation.
7. Furthermore, I have found in my appeal decision that the proposal would be unacceptable. There is no basis for considering that the Council's decision has prevented or delayed development which should clearly be permitted, 'having regard to the development plan and national policy which includes the tilted 'presumption in favour' of granting permission.

Conclusion

8. For the reasons set out above, whilst the Council exhibited unreasonable behaviour in some respects in terms of the PPG, I conclude that I find that no wasted or unnecessary expense has been incurred by the applicant in the appeal process. The application for a full award of costs is refused.

Laura Cuthbert

INSPECTOR