



Costs Decision

Site visit made on 16 April 2024

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Costs application in relation to Appeal Ref: APP/N2535/X/23/3334694 Crown Inn, Main Street, Osgodby, Market Rasen, Lincolnshire LN8 3TA

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Richard Heavens for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of a certificate of lawful use or development (LDC) for the change of use of a sui generis class public house to a C3 class dwelling house.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. The PPG provides examples of unreasonable behaviour by local planning authorities. These include the failure to produce evidence to substantiate reasons for refusal and making vague, generalised or inaccurate assertions unsupported by objective analysis as well as preventing or delaying development that should have been permitted.
4. The applicant considers that the Council acted unreasonably as it failed to produce any evidence to substantiate its reason for refusal, failed to accept an offer to visit the property in October 2023 which would have revealed that the ground floor of the property was in residential use, and instead relied on and placed undue weight on third party allegations of deliberate concealment.
5. The Council's single reason for refusal was that from the information provided along with records held by the Council, *"it is reasonable to conclude on the balance of probabilities that the ground floor area of the building has not been used as a C3 dwelling for a period of 4 years"*. It is clear from the Officer's report that the Council assessed the evidence provided by the appellant and concluded that, in their view, it did not demonstrate on the balance of probabilities that the ground floor of the property had been used for residential purposes for the necessary period. The Council also placed significant weight on their record of a phone call on 3 December 2019 when the applicant is said to have stated that he was living in the accommodation on the first floor and that the *"downstairs area remains as a pub and is untouched"*.
6. Whilst I have not agreed with the Council in terms of any assessment made of the planning unit, or on their assessment of whether the evidence met the

standard of the balance of probabilities, they had reasonable questions about the evidence provided. The fact that the parties disagree does not in itself demonstrate unreasonable behaviour.

7. Had the Council visited the property in October 2023 it would have afforded Officers a more a more up-to-date picture of the properties use. However, given the Council's reliance on the telephone call notes from December 2019 and its sole focus on the use of the ground floor of the property, it is highly unlikely that the Council will have formed the view that the four-year period had been met and granted the LDC. The Council also did not refer to deliberate concealment, which was a matter primarily raised by third parties, in its reasons for refusal and it did not form a critical part of the Council's case. Consequently, I find it highly unlikely that an appeal would have been avoided.
8. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Jones

INSPECTOR