



Costs Decision

Site visit made on 26 June 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Costs application in relation to Appeal Ref: APP/D3125/W/24/3336443 Drovers Barn, Church End, Swerford, Oxfordshire OX7 4BA

- 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 J Smith of Charlbury Building Co Ltd for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for the conversion of builder's yard storage building to dwellinghouse and associated alterations and operations.
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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 application essentially relies on the fact that when setting out that the proposal would harm non-designated heritage assets, the Conservation Officer did not undertake a site visit, but rather relied on a desk top study. This led to the Council failing to identify which non-designated heritage assets would be harmed. The applicant also points out that it is not clear from reading the Conservation Officer's comments that she was aware that the building had already been lawfully constructed and the proposal only involved a change of use with only modest external alterations.
4. The Council highlight that in the original planning statement, with the exception of the conservation area, the applicant does not identify any designated or non-designated heritage assets nearby and does not adequately describe the significance of any relevant heritage assets. They consider that the Conservation Officer's review and the relevant reason for refusal were reasonable.
5. When considering the available evidence, it is reasonably clear what the Council are concerned about, and such concern was arguable. The fact that the Council relied on a desk top study rather than undertaking a site visit is not determinative as there is relevant information available which identifies the designated and non-designated heritage assets in enough detail to allow a reasonable assessment to be undertaken. Further, I am satisfied that the relevant Conservation Officer understood the proposal and made an appropriate assessment on that basis.

6. Although ultimately, I have come to a different conclusion to the Council in relation to the impact on these non-designated heritage assets, I have found that the Council have made a sufficient case regarding heritage matters.
7. Overall, I am satisfied that whether or not the proposal would harm non-designated heritage assets was a matter of planning judgement and the Officer's report makes a sufficient case to support their view. This judgement is supported by specific references to policies of the development plan. While I have come to a different judgement on the planning merits, I consider that the approach of the Council was arguable. Therefore, including this matter as a reason for refusal does not result in unreasonable behaviour. Further, I consider that given the lack of information at the application stage, the heritage appeal statement was necessary to persuade me that the proposal was acceptable in heritage terms.
8. Moreover, the scheme was also refused based on the Council's view that the appeal site was not an appropriate location for the proposed development and due to insufficient information about the impact of the proposal on ecology with particular regard to great crested newts. Whether or not the proposal resulted in harm in relation to these matters are also matters of planning judgement. The Council made a satisfactory and proportionate case in these respects. Therefore, in any event an appeal could not have been avoided.
9. In my judgement, when considered in the round, the Council's case was sufficient to raise concerns about the heritage implications of the proposal and argue that contrary to the development plan it would harm non-designated heritage assets. Overall, I do not consider that the Council has acted in such a way that it should be considered to be unreasonable behaviour that has led to unnecessary or wasted expense in the appeal process to justify an award of costs.

Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Rawle

INSPECTOR