



Costs Decision

Site visit made on 9 April 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2024

Costs application in relation to Appeal Ref:

APP/W1715/W/23/3329709 Moorgreen Farm, Burnetts Lane, West End, SOUTHAMPTON, Hampshire, SO30 2HH

- 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 Stephen Pryor for a [partial] [full] award of costs against Eastleigh Borough Council.
- The appeal was against the refusal of planning permission for the conversion of first floor of existing detached garage to C1 AirBnB.

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. A Council would be vulnerable to costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The Applicant alleges that in substantive terms:
 - the Council Members failed to take into account other material considerations that may have indicated that a decision should be made not in strict adherence to the development plan.
 - By taking into account the intensification of the unit, the Committee failed to recognise that the Council had found the building, in itself, to be acceptable in the countryside.

The development plan

4. Paragraph 2 of the National Planning Policy Framework (the framework) identifies that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The Eastleigh Local Plan [2022] (LP) is an up-to-date, recently adopted plan.
5. In my main decision, I have found that the proposed conversion complied with LP policy S5 as it consisted of a reuse of a building that was to be used for tourism purposes. The material considerations, drawn to my attention by the Appellant, referred to paragraph 88 of the Framework. This provision supports a prosperous rural economy, and at (c), sustainable rural tourism which would

respect the character of the countryside. Although the Framework does not refer to the conversion of buildings it clearly provides support for the proposal. Consequently, in finding the scheme accorded with the development plan, I did not need to consider whether material considerations indicated otherwise. However, even if a conflict had been found with the Plan I am unconvinced that the Framework provided a compelling contrary consideration that the Council should have taken into account and applied to find in favour of the scheme.

6. I also do not consider it would have been necessary for the Planning Committee to have either identified any explicit support for the scheme garnered by the Framework or should have applied this to a balancing exercise. In finding no conflict with LP policy S5, I have clearly come to a different view to the Committee. However, this alone does not mean that the Committee's decision was unreasonable or perverse. Accordingly, this would not amount to unreasonable behaviour.

Intensification

7. The officer report considers the effect of the holiday let on the local highway network and the character of the area. The Council has explained that its concerns with respect to intensification did not relate to highway matters but rather the increased patronage altering the character of the family home.
8. Compared to the approved use, for a garage and office above, the proposed conversion represented a material change of use which would attract and generate more activity than the approved use. As such, it was correct for highway matters and character to be considered by the Council and it was reasonable for it to identify this as an intensification. Therefore, whilst I have found that the intensification would be limited, and thus acceptable, this view was based on planning judgement which is a subjective matter. As a result, the Council did not behave unreasonably by considering such matters and raising an objection on this basis.
9. With respect to both grounds, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.

Ben Plenty

INSPECTOR