



Cost Decision

Site visit made on 7 November 2023

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Costs application in relation to 2no. Appeals – Appeal A Ref: APP/L3245/W/23/3317766 and Appeal B Ref: APP/L3245/Y/23/3317823

Woodcroft, Batchcott, Richards Castle, LUDLOW, SY8 4EB

- 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 Chapel Properties for a full award of costs against Shropshire Council.
 - Appeal A was against the refusal of an application for planning permission for the conversion and extension of redundant barn to holiday letting accommodation (modification to previously approved 19/03669/FUL) to allow for changes in fenestration and an increase in length.
 - Appeal B was against a refusal to grant listed building consent for the insertion of additional windows at ground and first floor level to the east elevation; change approved window to French doors on north elevation; and erection of extension by 450mm to allow rebuilding of west gable wall (amendment to previously approved 19/03670/LBC).
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Decision

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

Reasons

2. The Government's 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. Costs may be awarded on procedural failings or on substantive grounds.
3. I have considered the applicant's application for costs on procedural grounds.
4. The essence of the application is that in the view of the applicant, the Council prevented a development which should clearly have been permitted, having regard to the National Planning Policy Framework as well as the Development Plan and suggests that the Council misapplied SAMDev Policy MD7, in particular the criteria to that policy. It is alleged that criteria b) of that policy would permit the replacement of buildings which contribute to local distinctiveness, especially where this is required to support appropriate rural economic development. It is further alleged that the Council ignored pleas to postpone a decision on the application(s) to allow the arguments to be put to the Council

- and presumably to improve the design of the proposal. In terms of procedural unfairness, it is claimed that the Council failed to cooperate during the application process despite the applicant's willingness to negotiate and put things right.
5. The Council has not commented on the application for an award of costs. However, it seems to me that Policy MD7b whilst supporting appropriate rural economic development opportunities in principle, is nevertheless clear that proposals for the replacement of buildings that contribute to the historic environment will be resisted unless the proposal is in accordance with policy MD13. MD13 seeks to protect heritage assets, which would include buildings and structures within the curtilage of listed buildings. I note that the applicant applied for planning permission to convert an existing agricultural building, which formed part of the listed building at Woodcroft. The conversion also required listed building consent and it is on this basis that I determined the two appeals.
 6. Whilst I recognise that the applicant may have carried out unauthorised works in all innocence of legislation, the demolition of a listed building is unlawful. The Council in my view was quite correct in assessing the proposal on the basis of heritage policies as well as other development management policies. It is though true that the most relevant policy with regards to the proposal is MD7b and not MD7a. That said the refusal notice clearly identifies a whole series of heritage policies as well as the relevant 1990 Act that seeks to protect listed buildings, their curtilages and settings.
 7. From my assessment of the evidence, I am satisfied that the Council did not mis-direct itself in determining the applications for planning permission and listed building consent. It seems to me that the applicant having carried out unauthorised development stopped work as soon as he realised this. However, from what I can ascertain, he continued to promote something that was totally unacceptable from both heritage and design points of view. I am not surprised that the Council was not keen on entering into further dialogue over something that is inherently unacceptable in heritage terms. My decisions on the appeals also drew attention to design failings irrespective of the condition of the building.
 8. As a result, I conclude that the Council's refusal does not amount to unreasonable behaviour in the terms of the PPG. Thus, I conclude that unreasonable behaviour resulting in unnecessary expense in the appeal process has not been demonstrated and that a full award of costs is not justified.
 9. For the above reasons this application fails.

Gareth W Thomas

INSPECTOR