

Costs Decision

Site visit made on 5 September 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 September 2016

Appeal Ref: APP/B3410/W/16/3153806

Land at Belmont Gate, Needwood, Staffordshire DE13 9PH

- 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 Michael Bloor against the decision of East Staffordshire Borough Council.
 - The appeal was against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for the conversion of an agricultural building to form a single residential unit of accommodation.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can be awarded against a party who has behaved unreasonably and thereby caused the costs applicant to incur unnecessary expense in the appeal process.
 3. The applicants' case is substantive in nature. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.
 4. In this case, the applicant asserts that unnecessary expense has been incurred in pursuing the appeal arising from the Council, firstly, by ignoring the evidence put forward by the applicant at the application stage that sought to demonstrate that the building was in agricultural use at the relevant date and, secondly, by introducing a new main issue that had not been previously raised.
 5. Firstly in terms of the agricultural evidence, although the applicant believes the Council has maintained an unreasonable stance in not accepting the applicant's evidence, it is also apparent that the Council has always maintained a degree of reticence over the veracity of the evidence and had made this known to the applicant at various stages of the application process. I believe the Council was in its rights to challenge the veracity in this way although its own evidence was not at all strong. But the appeal process is one of balancing all material planning considerations including the evidence provided.
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6. Secondly, in terms of the alleged late evidence, it is accepted that the building at the adjoining business park has not been built in accordance with the approved scheme. The Environmental Health Department was incorrect as the applicant states; however, the determining authority (the local planning authority) based its decision on correct information. It is understood that there is an open enforcement file relating to the subject and a planning application for the unauthorised development has been lodged with the Council and is under consideration at the time of the appeal. However, the Council also pointed out that its concerns related to the close proximity of the appeal building to a site that has planning permission for B1, B2 and B7 uses within the Use Classes Order. The fact that an application is pending does not necessarily mean that the building that has been erected on the adjoining land will inevitably be approved. However, as my decision on the planning appeal explains, the Council's decision was based on the fact that the adjoining land enjoys planning permission for uses that include the carrying out of B2 industrial processes. I agree with that view.
7. Consequently I find nothing wrong in the way that the matter has been handled by the Council and believe it has acted reasonably in respect of both issues. I do not consider that new or late evidence has been submitted in this appeal. Rather, the evidence presented by the Council reflects the ongoing planning matters that prevail at this location. The applicant has had full opportunity to respond to the Council's case as part of the appeal process and has not been therefore been prejudiced by the Council's evidence.

Conclusion

8. Therefore, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

Gareth W Thomas

INSPECTOR