
Costs Decision

Site visit made on 14 September 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 05 October 2016

Costs application in relation to Appeal Ref: APP/D0840/W/16/3149769 Small Barn, Calamankey Farm, Longdowns, Penryn TR10 9DL

- 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 Chris Davidson for a full award of costs against Cornwall Council.
 - The appeal was against the refusal to grant approval required under a development order for conversion of existing agricultural barn to domestic dwelling under Class Q of GDO 2015 to include 3 bedrooms.
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Decision

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

Procedural Matter

2. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision.

Reasons

3. The PPG advises that, irrespective of the outcome of the appeal, costs may only 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.
 4. The applicant claims that the Council acted unreasonably as it accepted and registered the application as complete and then refused it on the basis of insufficient information; made no attempt to request any further information whilst considering the application which it later said was necessary; presented evidence in the officer's report which purported to represent all the constraints on the site, and then did not use this evidence to determine the application; presented irrelevant evidence in the officer's report which could be held to be misleading; did not refer to the most obvious source of the required information, the Cornwall Register of Contaminated Sites, which contains no contaminated sites in the application area; refused to provide information on the source of the Environmental Liaison report upon which it worded the refusal; failed to provide information requested to identify the 'potentially' contaminated sites it quoted as being constraints.
 5. In respect of the validation of the application, paragraph W(2) of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 sets out what is required to accompany an
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- application. It is not reliant on whether sufficient other information has been provided. As set out in paragraph W(9), the Council may require the submission of additional information to assess impacts or risks and any necessary mitigation. However, it is not a requirement of the Council to make such a request.
6. Furthermore, under paragraph W(3), the Council may refuse an application where it considers insufficient information has been provided, and this relates to its duty under paragraph W(10)(c) to determine whether the site will be contaminated land. In this case, I am satisfied that based on the knowledge of the building's use as a barn and the nature of surrounding land uses, the Council could justifiably have considered there to be potential sources of contamination which may not have been previously recorded, and that in order to approve the application, further investigative work would need to have been presented. This is all the more so given the proposed residential end use which would be particularly vulnerable were the site affected by any contamination. Such investigative work was only presented with the appeal submissions, and the Council then confirmed that its reason for resisting the application had fallen away.
7. In conclusion, for the above reasons, I find that the Council did not behave unreasonably in determining the application and that, therefore, the applicant's costs in pursuing the appeal were not unnecessarily incurred or wasted. For this reason, and having regard to all other matters raised, neither a full or partial award of costs is justified.

Andrew Dawe

INSPECTOR