
Costs Decision

Site visit made on 10 January 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 7th February 2017

Costs application in relation to Appeal Ref: APP/J1915/W/16/3159890 Jepps Farm, Mangrove Lane, Hertford, Hertfordshire SG13 8QJ

- 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 H J Brooks and Sons for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of prior approval under Schedule 2, Part 3, Class Q(a) and Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2105 (as amended) for the change of use of an agricultural barn to 1no, two bed, dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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.
 3. The appellant's substantive application for costs relies in the main on whether the Council had regard to the Governments guidance in Paragraphs 108 and 109 of the Guidance when it determined the planning application, with particular regard as to whether the appeal site is an impractical or undesirable location for a dwelling. On procedural grounds, the appellant contends that the Council's suggestion in the appeal questionnaire that it would not be necessary to enter the site to see the relevant part of the appeal site is unreasonable given the reference to the layout of the farm referred to in the grounds of appeal.
 4. The officer's report sets out in considerable detail why the Council considers that the proposal would conflict with the condition in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) which requires that the prior approval of the Council be sought as to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change to a residential use. The report also clearly sets out the Council's position that there is a conflict between the National Planning Policy Framework (the Framework) and the Guidance in relation to new dwellings in the Countryside when considering the provisions of Class Q of the Order.
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5. Although I have allowed the appeal, the Council has nonetheless set out a comprehensive argument with reference to case law and other material as to why it considers the revisions to the Order and the Guidance against the context of the Framework may allow for the interpretation it has applied to it. It is clear that the Council had given substantial thought to the Guidance. Accordingly, I conclude that the Council has not behaved unreasonably with respect to the substance of the matter under appeal.
6. Turning to the second matter, in the event, I was able to access the site with the permission of the appellant. However, had I not been able to do so, I am satisfied that I would have been able to see the relevant parts of the appeal site sufficiently well from the public highway and that in conjunction with the supporting evidence from both parties I would have been able to assess and determine the appeal. I find that the Council has not acted unreasonably in this respect.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John Dowsett

INSPECTOR