
Costs Decision

Site visit made on 23 February 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 11 May 2017

**Costs application in relation to Appeal Ref: APP/Y3940/W/16/3162745
Building 3, Nables Farm, Scotland Hill, Upper Seagry, Chippenham,
Wiltshire SN15 5HB**

- 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 Andrew Jackson for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, paragraph P.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 for conversion of existing building (building No 3) falling within Class B8, for use as 3 No dwellings (Class C3) pursuant to Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

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 by delaying and inhibiting the grant of the prior approval application made, which is claimed should have been granted on the basis of the information presented. It is claimed that details of the proposed building operations should not have been requested under the requirements of Class P Schedule 2, Part 3, paragraph P.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) relating to change of use only.
 5. The Council claimed that the building is unsuitable or not capable of conversion without comprising development requiring planning permission. Nevertheless, as set out in my appeal decision, in pursuing that matter this went beyond the limited scope of what should have been considered under the terms and conditions of Class P. The Council's reference to Class Q was not relevant to the appeal case and those details referred to in paragraph W(9)(c) of the GPDO
-

could only reasonably have been expected to address those aspects of Class P that were for consideration.

6. Furthermore, the Council did not indicate that there were grounds for refusing prior approval in respect of any of those aspects set out in paragraph P.2(b) of Class P, as I also found to be the case. As such, there was no other basis for the Council pursuing the appeal other than in relation to the above matter.
7. In conclusion, for the above reasons, I find that the Council behaved unreasonably in determining the application and that, therefore, the applicant's costs in pursuing the appeal were unnecessarily incurred and wasted. For this reason, a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr Andrew Jackson, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. Mr Andrew Jackson is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Dawe

INSPECTOR