
Costs Decision

Site visit made on 2 May 2017

by B Bowker Mplan MRTPI

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

Decision date: 25 May 2017

**Costs application in relation to Appeal Ref: APP/Q1825/W/17/3167688
Bradley Green Barn, Land at Priestbridge (Field 3711), Church Road,
Bradley Green, Redditch, Worcestershire B96 6TJ**

- 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 J Coote for a full award of costs against Redditch Borough Council.
 - The appeal was against the refusal to grant approval under Section 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order (GPDO) 2015 for conversion of agricultural building and associated land into a residential dwelling and curtilage.
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Decision

1. The application for an award of costs is allowed for the reasons given below.

Reasons

2. The National Planning Practice Guidance (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.
 3. The PPG advises that examples of unreasonable behaviour by local planning authorities include preventing development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.
 4. The appellant contends that the Council's refusal of the application was based on a fundamental misinterpretation of the GPDO, by determining the case on the use of the building at the time of its site visit rather than the use of the building on 20 March 2013 as required by Class Q.1a(i) of the GPDO. The appellant also highlights its attempts to avoid an appeal by seeking to resolve the matter post decision. The appellant considers these factors constitute unreasonable behaviour that has resulted in unnecessary expense in having to appeal a decision that should have clearly been permitted.
 5. The Council consider that pre-application discussions could have secured a Flood Risk Assessment (FRA) and supporting evidence necessary to determine the application. In particular, the Council state that evidence of previous agricultural use was not submitted with the application and that when it was submitted was inadequate.
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6. As reasoned in the accompanying appeal decision, the Council confirmed the start date of the application as 1 June 2016 and the deadline for determination being 26 July 2016. As outlined in the appeal decision, legislative powers are available for a local planning authority to refuse an application on grounds insufficient information. Moreover, the initial absence of the FRA and evidence of previous agricultural use does not alter the fact that the Council failed to assess the use of the site correctly as required by GPDO Class Q.1a.
7. The Council state that it forwarded to the appellant similar cases cited in the 'Planning Jungle' where intervening and existing uses were considerations. In addition, the Council outline that the site has not previously been subject to any appeal decisions and that it is not determined any similar cases.
8. The evidence before me is inconclusive to establish whether the Council had sight of the appeal decision appended to the appellant's Appeal Statement. Also, I have no specific details about the cases the Council refer to from the Planning Jungle. However, Class Q paragraph Q.1a of the GPDO is unambiguous on how to approach matters of agricultural use, irrespective of the Council having not dealt with similar cases at the site and in general. In this respect the Council failed to assess the case as required by GPDO paragraph Q.1a.
9. Therefore I conclude that the Council's reason for refusal was not in accordance with Class Q paragraph Q.1 of the GPDO. This constitutes unreasonable behaviour and has resulted in unnecessary cost for the appellant in having to appeal the decision. Consequently a full award of costs is justified. However, for clarification purposes, the award of costs does not include time spent by the appellant in trying to obtain a solution after the Council issued its decision. This activity was outside of the application and appeal process and thus falls outside the remit of cost recovery.

Costs Order

10. 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 Redditch Borough Council shall pay to Mr J Coote the full costs of the appeal proceedings described in the heading of this decision.
11. The applicant is now invited to submit to Redditch Borough 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Cost Office is enclosed.

B Bowker

INSPECTOR