



Costs Decision

Site visit made on 27 November 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 19th December 2017

Costs application in relation to Appeal Ref: APP/X1118/W/17/3180874 Leigh Farm Barns, Leigh Farm, Leigh Road, Chulmleigh, Devon

- 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 Ms Lucy Warren for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of prior approval for change of use of existing barns and courtyard to residential (approval of building details). Consent for conversion to two dwellings previously approved.
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Decision

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

Reasons

2. The 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 another party to incur unnecessary or wasted expense in the appeal process.
3. As I have explained in my planning decision, the Council was under no obligation to grant prior approval simply because approval had already been given under Class Q(a). The latter decision does not establish the principle of development. In order for the proposal to qualify as permitted development, the building operations would need to meet all of the limitations and restrictions set out within paragraph Q.1.
4. The Council was fully entitled to form a judgement on whether the building operations would constitute a conversion for the purposes of Class Q. In doing so, it was legitimate to have regard to advice in the PPG. I have agreed with the authority that there is a clear distinction to be made between a new roof, for which paragraph Q.1(i) allows, and a new roof structure. The decision to refuse prior approval was therefore sound and did not require technical evidence to rebut the structural engineer report submitted by the appellant.
5. The appeal failed on this point but also because the scheme would conflict with paragraph Q.1(g). Whilst I appreciate the frustration at the Council's apparent unwillingness to enter into constructive dialogue, such discussion would have achieved very little given the nature of the issues in dispute. Thus in my opinion the appeal was unavoidable and the Council has not prevented or delayed development which should otherwise be permitted.

6. It has been suggested that the Council's decision on the appeal scheme is inconsistent with its handling of other cases. Evidence to support this assertion has not been provided. Nevertheless, I am satisfied in this particular case that the local planning authority has applied the provisions of Class Q correctly.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. For the reasons given above, I refuse the application for an award of costs.

Robert Parker

INSPECTOR