



Costs Decision

Site visit made on 17 January 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 14th February 2018

Costs application in relation to Appeal Ref: APP/E2734/W/3181890 Little Acres Farm, Bedlam Lane, Staveley, HG5 9JU

- 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 Jon Nixon for a full award of costs against Harrogate Borough Council.
 - The appeal was against the refusal of the Council to grant Prior Approval for a change of use of an agricultural building to 2 No. dwellings.
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Decision

1. The application for an award of costs is allowed in part.

Reasons

2. Planning Practice Guidance ('PPG') 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 submits that the Council has acted unreasonably in that it has sought to contest the appeal despite having determined the application outside of the statutory 56 day limit. The appellant further submits that the Council's second reason for refusal is not a relevant consideration under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the GPDO').
4. A main issue in considering the appeal was whether the extent of the proposed structural works would go beyond those permitted under Class Q. The Council's view was that the proposed works went beyond what is allowed, and would amount to the substantial rebuilding of the pre-existing structure. Had I accepted that argument, then the proposal would have fallen outside of Class Q entirely and would not have been permitted development. This would have been the case regardless of whether the Council had issued its Decision within the statutory 56 day limit. The Council therefore did not act unreasonably in seeking to resist the development on these grounds.
5. The Council's second reason for refusal related to the living conditions of future occupiers of the development. However, regardless of whether this is capable of being considered under Paragraph Q.2, once the statutory 56 day limit had expired permission was deemed to have been granted (assuming the proposal fell within Class Q). At this point, the Council was no longer able to withhold approval in relation to any matter listed at Paragraph Q.2. It therefore acted unreasonably in seeking to pursue this second reason for refusal.

Conclusion

6. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

7. 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 Harrogate Borough Council shall pay to Mr Jon Nixon, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in rebutting the second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. Mr Jon Nixon is now invited to submit to Harrogate 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.

Thomas Hatfield

INSPECTOR