



Costs Decision

Site visit made on 25 March 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2019

Costs application in relation to Appeal Ref: APP/N4720/W/19/3219850 Land adjacent to Wheatfields, Tithe Barn Lane, Bardsey, Leeds LS17 9DX

- 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 David Cornforth of GE Cornforth and Sons for a full award of costs against Leeds City Council.
 - The appeal was against the refusal of prior approval for a change of use of agricultural barn to a dwelling.
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Decision

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

Preliminary Matters

2. In the main appeal decision, I amended both the site address and the description of the proposed development, and I have used those same details in this costs decision.

Reasons

3. The Government's Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and that this unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 4. The applicant states that the Council has acted unreasonably in refusing prior approval, thereby causing them to incur unnecessary or wasted expense in making an appeal.
 5. The main parties are in dispute as to whether the proposal is permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Reference is also made to the guidance contained in PPG concerning Class Q developments.
 6. This is a matter of planning judgement which I have addressed in my main decision. Whilst I have reached a different conclusion to the Council, I am satisfied that it has adequately substantiated its case and has not acted unreasonably in reaching its decision.
 7. The evidence indicates that the Council sought legal advice in relation to this application, which it has been unwilling to share with the applicant. Legal advice is generally privileged and the Council has not behaved unreasonably by refusing to share such advice with the applicant.
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8. The applicant also refers to three other approvals¹ which were granted by the Council in 2018, and states that this is evidence that the Council has not determined the appeal application in a consistent manner with other similar proposals. Reference is also made to the reason for refusal on another recent application² for a similar proposal at the appeal site, which is different to the reason for refusal on the appeal before me.
9. I am not fully familiar with these other approvals and from the limited information available it is not possible for me to reach firm conclusions as to all the similarities or differences with the appeal proposal. I am also not fully familiar with the *similar* scheme that was refused by the Council at the appeal site.
10. In any event, each proposal should be determined on its individual merits, and as set out above, I am satisfied that in the case before me the Council has adequately substantiated its decision to refuse prior approval.
11. For these reasons I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated, and that having regard to all other matters raised, an award of costs is not justified.

Andrew Parkin

INSPECTOR

¹ LPA Refs. 17/08420; 17/07683; and, 18/00588

² LPA Ref. 18/04221/DPD