



Costs Decision

Site visit made on 5 April 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Costs application in relation to Appeal Ref: APP/P2935/W/18/3219082 The Gin Gan, Whalton, Northumberland NE61 3YH

- 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 & Mrs Fenwick for an award of costs against Northumberland County Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Prior Approval for a Proposed Change of Use of an Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development.
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Decision

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

Reasons

2. The 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. The applicant seeks an award of costs on procedural and substantive grounds.
3. In respect of procedural grounds, the Council invited amended drawings to remove a chimney and extension from the appeal scheme. The evidence indicates these features would have resulted in the external dimensions of the building extending beyond the external dimensions of the existing building therefore meaning they would not be permitted by Class Q.
4. Based on the evidence provided, I do not consider the Council insisted these drawings be provided and I do not consider highlighting this issue to be unreasonable behaviour given that it narrowed the issues i.e. the extent to which the scheme did not comply with Class Q. Had the Council not done this it is likely this issue would have formed a further reason for refusing the scheme.
5. The Council voiced concerns about the appeal scheme early on in the application process and was willing to accommodate more time for the applicant to provide additional information in response to its concerns. Whilst in this case it did not make an appeal avoidable it did narrow the issues and so was a helpful approach in this case.
6. The applicant identifies the Council referring to out of date legislation in its report however I am not satisfied this affected the outcome of this case.

7. In respect of the substantive grounds, the applicant considers the Council has treated similar conversion schemes differently and refers to appeal decisions for other Class Q developments. However, I am not satisfied the circumstances in the cases referred to are the same as in this case, particularly with regard to the condition of the building. The way in which the Council has handled other applications is not a matter for me to consider within the context of this case.
8. The applicant considers the Council has failed to present a reasoned approach to their decision which is based on an unqualified assessment not supported by any professional evidence. However, the issues in these types of cases relate to matters of planning judgment. In my judgement, the Council's report and statement clearly explain the issues relating to the condition of the building which led to its decision, in the context of relevant caselaw, and so I do not consider their assessment to have been unreasonable or that the Council has prevented or delayed development which should clearly have been permitted.
9. Criticism is made of the Council's report where it states the appeal building appears to be in a 'fair' condition. But I do not accept this is a contradiction of the Council's decision given that it is clear the decision included an assessment of the submitted details and not just a visual inspection of the building from the outside.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

L Perkins

INSPECTOR