
Costs Decision

Site visit made on 20 August 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2019

**Costs application in relation to Appeal Ref: APP/Z3825/W/19/3229953
Workshop North of Teacaddy Cottages, off A24, West Grinstead, RH13 8LG**

- 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 H Pannell for a full award of costs against Horsham District Council.
 - The appeal was against the refusal of an application for planning permission for Prior Approval for conversion of B1(c) workshop into 2 Class C3 dwellinghouses.
-

Decision

1. The application for costs is allowed in the terms set out below.

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.
3. The applicant states that the Council acted unreasonably in failing to act consistently in the way it assessed the use of the premises subject of the appeal, given that there was a Certificate of Existing Lawful Use or Development (CLEUD) granted in 2017.
4. At that time the Council in its assessment of the use of the premises, concluded that the premises had been in B1 use for the previous 10 years, which included the relevant date of 19 March 2014 set out in Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Further the Council had determined a separate application for the appeal site, subsequent to the appeal being lodged, which referred only to the workshop's B1 use and did not raise concerns with respect to Class B8 storage use. In the appeal decision I was satisfied that the use at the relevant date would be consistent with a Use Class B1(c) of the Schedule to the Use Classes Order.
5. The applicant states that the Council failed to seek any further clarification from the appellant, of the use being carried out in the building following a site inspection to investigate if a material change of use had occurred. The appellant also refers to the Council's Delegated Applications- Assessment Sheet (DAAS) in which the applicant states the Council failed to consider any change of use, abandonment of existing use or definitions of the industrial use. The Council states that Prior Approval applications are time limited and it made its decision on the basis of the evidence submitted and the site inspection.

6. Given the Council's sole reason for refusal, I do not consider that the Council took into full and proper account the evidence of the use of the premises which it had established, when it previously granted the CLEUD. This was for a Use Class B1, and further a business operation which would have been consistent with a Use Class B1(c) use. As this would meet the criteria set out in the GPDO, prior approval should have been granted, and as a result I consider the Council acted unreasonably.
7. The refusal to grant prior approval therefore constitutes unreasonable behaviour and the appellant has incurred unnecessary expense in undertaking the appeal and therefore a full award of costs is justified.

Costs Order

8. 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 Horsham District Council shall pay to Mr & Mrs H Pannell, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Horsham District 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.

Paul Wookey

INSPECTOR