



Costs Decision

Site visit made on 15 October 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 4th November 2019

Costs application in relation to Appeal Ref: APP/R0660/W/19/3234279 Dairy Farm, Halliwell's Brow, High Legh, Cheshire WA16 0QS

- 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 High Legh Estate for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal to grant approval required under Schedule 3, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for conversion of existing agricultural building to residential use.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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 application is seeking to recover the costs incurred in the appeal process on the grounds that the Council incorrectly interpreted the criteria set out in Q.1 of the General Permitted Development Order 2015 (the GPDO), that it failed to substantiate the reasons for refusal and that it failed to give due regard to relevant case law relating to material changes of use.
4. In its evidence to the appeal, the Council concluded against the relevant parts of the GPDO having regard to the evidence before it and its observations from the site visit. In this respect, it did substantiate the reason for refusal. Moreover, while the applicant considers that the Council failed to provide substantive evidence in respect of the use of the building, the GPDO is clear that it is the responsibility of the applicant to demonstrate that the proposal complies with the relevant requirements of the GPDO.
5. There is no specific reference to the particular case law that the appellant considers relevant to the appeal or explanation of the way in which the Council failed to have regard to the unspecified case law. I am not therefore persuaded that the Council behaved unreasonably in this respect.
6. Moreover, as will be seen from my appeal decision, I agreed with the Council that the evidence was insufficient to establish whether the proposed development would comply with the definition of permitted development. It

therefore follows that the Council did not unjustifiably withhold consent and the appeal could not therefore have been avoided.

7. While I accept that the decision will have been a disappointment to the applicant, I nevertheless find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Sarah Manchester

INSPECTOR