

Costs Decisions

Site visit made on 14 October 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2019

Appeal A

**Costs application in relation to Appeal Ref: APP/P1133/W/19/3220911
Quarry Farm, Stancott, Chudleigh, Devon TQ13 0DN**

- 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 Christopher Burton for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of permission in principle for a proposed development of a minimum of 5 and maximum of 7 no. market and self-build dwellings.
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Appeal B

**Costs application in relation to Appeal Ref: APP/P1133/W/19/3221698
Quarry Farm, Stancott, Chudleigh, Devon TQ13 0DN**

- 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 Christopher Burton for a full award of costs against Teignbridge District Council.
 - The appeal was against the against a grant of planning permission subject to conditions.
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Appeal C

**Costs application in relation to Appeal Ref: APP/P1133/W/19/3220824
Quarry Farm, Stancott, Chudleigh, Devon TQ13 0DN**

- 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 Christopher Burton for a full award of costs against Teignbridge District 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 for conversion of agricultural buildings to residential use under Class Q of the GPDO 2015 (as amended).
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Decision in respect of the application in connection with Appeal A

1. The application for costs is refused.

Decision in respect of the application in connection with Appeal B

2. The application for costs is refused.

Decision in respect of the application in connection with Appeal C

3. The application for costs is refused.

Procedural Matters

4. 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.
5. Separate costs applications were made in relation to each appeal. However, the applicant is the same in all cases and I consider it appropriate to issue my decision in relation to each application within the same letter.

Application in respect of Appeal A - Reasons

6. The applicant claims that in respect of Appeal A, the Council should have approved the appeal application and that the submission of the appeal was avoidable. It is also claimed that the Council failed to advise of the second reason for refusal before the decision notice was issued, amongst other issues and delay with the habitats matters.
7. That the proposal has been found to be habitats development is unsurprising given its proximity to the Special Area of Protection (SPA) and Special Areas of Conservation (SACs). That the Council's Biodiversity Officer is not fully conversant with applications for permission in principle is not a failing of the Council as Local Planning Authority. The Biodiversity Officer is a consultee in the process and the inclusion of their comments within the officer's report does not indicate that the Council has failed to reach its own conclusion. I have formed a similar conclusion to the Council on the face of the evidence submitted and do not consider that there are inconsistencies between the proposal and other schemes within close proximity of the SPA and SACs.
8. In respect of the matter of the second reason for refusal, whilst I appreciate that this will be a disappointment to the applicant, the Planning Practice Guidance (PPG) states that applications for permission in principle (PiP) should be determined in accordance with the development plan unless material considerations, such as the National Planning Policy Framework (the Framework) indicate otherwise. In this case, the key issue of the principle of development has been found to be unacceptable in accordance with the development plan policies. That this issue was not the subject of discussions prior to the issuing of the decision does not amount to unreasonable behaviour on the part of the Council, even though the Framework encourages proactive working with developers.

Application in respect of Appeal B - Reasons

9. The applicant claims that the Council should have approved Appeal B and that he has been put to unnecessary expense by having to appeal against the imposition of the condition. The condition similarly relates to habitats matters that are relevant to the appeal proposal given its proximity to protected sites.
10. For reasons set out in the separate appeal decision which need not be repeated here, I have found the condition to be necessary and reasonable in relation to the appeal proposal, albeit with expanded wording in the interests of precision and clarity.

Application in respect of Appeal C – Reasons

11. The applicant indicates that the prior approval was unreasonably refused and that the appeal could have been avoided.
12. From the evidence before me, it appears that the Council sought information from the applicant in order to fully understand the nature of the proposal made under the prior approval application. The responsibility to demonstrate compliance with the limitations of the Town and Country Planning (General Permitted Development) Order 2015, (GPDO) as amended, rests with the applicant.
13. I note the attempts by the applicant to address issues raised by the Council and the submission of a structural report. Despite these submissions, the Council has still found the proposal to require planning permission. I have also reached the same conclusion from my own assessment of the evidence.
14. The use of the phrase 'appears to' does not infer any uncertainty on the part of the Council that the proposal would exceed the limitations in Schedule 2, Part 3, Class Q of the GPDO. I too have used the same phrase in respect of the proposal, as whilst certain that the works exceed that necessary to convert the buildings to dwellings, there is a degree of ambiguity with some of the descriptions and plans submitted in relation to the proposed works and this is exacerbated by the nature of the proposal involving live/work units which do not typically fit under the Class Q regime.
15. The applicant raises that the Council could have discussed the proposal via meeting on numerous other occasions but that such invitations were ignored. The prior approval application process is not iterative in the way that a pre-application or typical planning application can be. The timescales for determination cannot be flexed in a similar way, and the failure to determine a prior approval application by the 56 day target date can have greater implications for a local planning authority. As such, it is not surprising that the Council have accepted the application based on the applicant's assertions that it was permitted development under the GPDO and made a determination accordingly. The discussions that took part between the parties prior to a decision being made do not indicate that the Council acted unreasonably.
16. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Subsequently for the reasons given above, I refuse all applications for an award of costs.

Hollie Nicholls

INSPECTOR