



Costs Decision

Site visit made on 18 December 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Costs application in relation to Appeal Ref: APP/D0121/W/19/3234531 Atcost barn at Glen Farm, Sandy Lane, Abbots Leigh, Bristol BS8 3SE

- 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 Brinkgreen Ltd for a full award of costs against North Somerset 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 the change of use from an agricultural barn (sui generis use) to a dwelling (use class C3), operational development consisting of replacement of existing corrugated asbestos roof with metal roof, new timber cladding and insertion of windows and doors.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 expense in the appeal process.
3. The applicant considers that the Council failed to properly assess the information submitted, questioned the conclusions of the submitted structural report that were unsupported with any objective or professional analysis and took an inconsistent approach to the level of information required in comparison to other similar applications that they found acceptable.
4. The PPG further advises that local planning authorities are required to behave reasonably in relation to the substance of the matter under appeal, and a list of examples is given including preventing or delaying development which should clearly be permitted, making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
5. The Council acknowledge that they made an error in assessing the plans by referring to the removal of an entire side wall and it being rebuilt in a different position thereby changing the shape of the building. Accordingly, they should not have referred to this in the delegated report, and more significantly, the wording on the decision notice refusing the application. However, whilst criticism can be levelled at the Council for this error, it does not follow that had

the Council taken proper account of the submitted information this would have led to a different outcome, thereby avoiding the need for an appeal as this was not the entirety of their case.

6. Paragraph W of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) outlines the procedure to be followed for applications for prior approval under Part 3. Paragraph W(3) stipulates that the local planning authority may refuse an application where, in the opinion of the authority (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions applicable to the development in question under the Order.
7. The Council's delegated report and appeal statement set out why, in their opinion, the level of information provided by the structural report provided was deficient. Although, I ultimately came to a different view, this was with the benefit of the supplementary information provided in the applicant's appeal statement. It will be seen from my decision that I acknowledge that the structural report did not go into great detail and contained a number of disclaimers. On that basis, the position of the Council, which required a judgement to be made, was not unreasonable.
8. I am referred to three recent decisions¹ of the Council permitting the conversion of agricultural buildings to dwellings under Class Q of the Order. Based on the information provided, two of the cases make little reference to the structural condition of the buildings but the third case does refer to a structural report. Individual planning decisions are normally determined on their own merits and accordingly the specific circumstances of each site will be different. The examples provided relate to different sites from the appeal site and it is not shown that any one is so similar in detailed circumstances to the appeal proposal, that it should carry more than limited weight. As such, they do not lead me to find that the Council has acted unreasonably in relation to the appeal proposal due to inconsistency.
9. Consequently, although the Council made an error in interpreting the submitted plans, it does not follow that they would otherwise have reached a different decision. Moreover, it is not shown that they were unreasonable in exercising their judgement that the level of information before them was insufficient to establish complicity with the relevant part of the Order. Accordingly, the applicant was not put to unnecessary or wasted expense in testing the matter at appeal.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Helen O'Connor

Inspector

¹ Referenced 18/P/4981/CQA; 18/P/4004/CQA & 18/P/3503/CQA.