
Costs Decision

Site visits made on 21 July and 20 August 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2020

Costs application in relation to Appeal Ref: APP/M10050/W/20/3252661 Church Farm, Dethick, Matlock DE4 5GG

- 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 P Dalton for a full award of costs against Amber Valley Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions prior approval for proposed agricultural building to store agricultural implements and machinery.
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Decision

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

Reasons

2. Paragraph 030¹ of the *National Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 051² of the PPG states that awards against appellants may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal.
4. The applicant applied for prior approval to build an agricultural building on land at Church Farm. This was refused firstly on the grounds that there was insufficient evidence to demonstrate that the barn was reasonably necessary and secondly that it would have an adverse effect on the setting of nearby heritage assets.

Farming necessity

5. Schedule 2, Part 6 Class A allows the building of agricultural buildings where reasonably necessary for the purposes of agriculture within that unit. This suggests to me that the decision maker is entitled to require evidence that a building is reasonably necessary. The argument that the applicant would not otherwise make the investment does not provide evidence of reasonable necessity or evidence that the building would be fundamentally linked to agricultural operations at Church Farm.

¹ Reference ID: 16-030-20140306

² Reference ID: 16-051-20140306

6. The application form, and design and access statement state that machinery is currently stored at the farm and that this space needs to be freed up for livestock. However, the officer's report states that there were no agricultural vehicles inside or outside the outbuildings at the time of their visit. Nor were there any animals in any of these outbuildings, or to be seen on those fields that the Council viewed. It is argued at appeal that the animals were housed elsewhere, as were the items of machinery. However, it is clear that the Council requested further information in this regard before the application was determined and none was forthcoming.
7. Moreover, the parish council and an interested party questioned whether Church Farm is still a working farm. In the circumstances the Council was entitled to require evidence to verify and support the applicant's arguments. This does not constitute unreasonable behaviour.

Heritage Assets

8. The officer's report sets out the Council's concern with regard to the heritage assets. Although this is fairly brief, it identifies the assets and states that the significance of the heritage assets is derived in part from the undeveloped open rural landscape that provides the setting of those listed buildings. It further goes on to conclude that the harm to those assets from the development would arise from its prominent location.
9. The Council's reasoning is clear and specific. Moreover, it is the responsibility of the applicant to describe the significance of heritage assets affected including any contribution made by their setting³. With regard to heritage assets the Council's reasoning is clearly related to siting design and external appearance as required by the GPDO. The Council's consideration is required and is therefore not unreasonable. There is nothing before me to substantiate the argument that councils are required to give lesser weight to relevant local policies and national guidance where an application is made for development under the GPDO.
10. With regard to the recently approved barn further along Dethick Lane, it is further from the listed buildings and would be located at the edge of the field. As such it is not comparable to the appeal before me and I am unable to conclude that the Council has been inconsistent.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense at appeal has not been demonstrated.

A Blicq

INSPECTOR

³ Paragraph 189 of the National Planning Policy Framework