



Costs Decision

Site visit made on 25 August 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMi

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Costs application in relation to Appeal Ref: APP/P1133/W/20/3249997 Undercleave Barn, Abbotsridge Drive, Oggwell, Devon TQ12 6YS

- 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 O'Neill 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 the conversion of the existing building and land with its curtilage to form a single dwelling.
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Decision

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

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 claims that the Council has acted unreasonably in two main ways. Firstly, that Council Officer disregarded the advice of other Officers in coming to the view that the proposal was not suitable for conversion under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order, 2015, as amended. Secondly, that the reason for refusal relating to mitigation measures for protected species of bats was incorrect in the Council's interpretation of planning legislation.
4. With regard the first point, as set out in my decision, on the evidence provided I do not consider that the conversion of the building amounts to requiring rebuild. Whilst I have reached a different conclusion to the Council, I am satisfied that it has adequately substantiated its case and has not acted unreasonably in reaching its decision. This is a matter of planning judgement. From the evidence provided I have no reason to believe that the Council's surveyors were presenting a view other than that from a building regulations perspective, which does not equate to a wider planning judgement. Similarly, that the Council were of a differing view to the applicant's surveyor does not deem their approach 'unreasonable' as defined in the PPG.
5. With regard the second point, had the Council have considered the proposed development to be acceptable with regard convertibility, such a grampian pre-commencement condition relating to bat mitigation measures would have been appropriate to include in any approval had it been considered to be sufficient

mitigation. The land was in the ownership of the appellant and the condition would not have in any way placed a presumption on the Council, or any other decisionmaker, to allow any future planning permission for that proposed. Furthermore, the applicant also informed the Council that such a pre-commencement condition was appropriate prior to their decision. It was therefore unreasonable of the Council to state that this matter could not be dealt with via this type of application.

6. However, I have little substantive evidence to demonstrate the nature of any costs unnecessarily incurred in the appeal process with regard this matter. As the decisionmaker, I would have required the information provided relating to the protected species so as to fulfil my statutory duties with regard the protected species. Likewise, had the bat roost not been granted a separate planning permission during the course of the appeal it would have been a necessary prior commencement condition of approval, in addition to the other stated conditions in my decision.
7. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary wasted expense in the appeal process, as described in the PPG has not been demonstrated.

M Scriven

INSPECTOR