
Costs Decision

Site visit made on 30 November 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

**Costs application in relation to Appeal Ref: APP/P1615/W/20/3256199
Barn at Meredith Lane, Tibberton, Gloucestershire - Grid Ref Easting:
376442 Grid Ref Northing: 221492**

- 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 Paul Baker (Evans Jones Ltd) for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal to grant approval for the conversion of barn to create 1no. 'smaller' dwelling and 1no. 'larger' dwelling.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by Local Planning Authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. Firstly, the applicant has stated that the Council has misunderstood the General Permitted Development Order (GPDO) with regards to the maximum floorspace allowance for large and small dwellings permitted under Class Q. While this might have been the case, the Council has explained their view on this matter, and has also stated that they do not consider the proposals as permitted development on the basis of the amount of works needed to convert the barn to dwellings. On this basis, even if there had been an agreement on the issue of the floorspace allowance then it is apparent that this would not have changed the Council's view that the proposal was not permitted development.
5. The applicant has also stated that there should not have been a consideration of ecological impacts, drainage or amenity of future occupiers, as these issues are not expressly mentioned in the GPDO Class Q. However, as can be seen with my appeal decision, Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on competent authorities to consider relevant Directives and whether there is a reasonable likelihood of European

Protected Species being present and affected by development. As such, the Council was reasonable in considering this aspect of the proposal and the potential impact on protected species.

6. With regards to the other issues, the Council has explained how the conditions under paragraph Q.2 are relevant to their reasons for refusal, such as the impact on the setting of the adjacent listed building. I would agree that the issues that are subject to prior approval under paragraph Q.2 are generally quite broad. In any case, even if these reasons for refusal were not raised by the Council, I regard it as very unlikely that the appeal would have been avoided, especially as there still remained the matter of the amount of rebuilding works required and also the ecological impacts.
7. The Council has included mention of Development Plan policies in their decision. Whilst this is not a planning application the inclusion of these policies adds some explanation of the Council's concerns and why they believe there would be harm as a result of certain aspects of the proposal. If the Council had not included these policies, I do not regard it likely that the appeal and its associated costs would have been avoided.
8. Likewise, the Council requested that information about drainage be provided, following consultation with Severn Trent Water. However, this was not determinative as an issue with there being no associated reason for refusal based on this matter. Therefore, even if this matter was not raised by the Council then it is unlikely that this would have avoided an appeal being necessary.
9. In regard to Council consistency, each case has to be considered on its own merits and I do not have full details of other cases to compare. In any case, it is my view that even if there were some variances between how the Council considered this application to others then it would not likely have resulted in this appeal being avoided.
10. In considering all the applicant's points in their Costs Application there has been many aspects where they consider the Council has not dealt with the prior approval application appropriately and that this has caused the applicant to incur unnecessary and wasted expenses by pursuing the appeal. However, the Council has given full explanation of their approach and it is my view that essentially, given the multiple reasons for refusal, this appeal was not likely to be avoided. Indeed, this was not a case that clearly should have been approved, with the subsequent appeal being dismissed based on the evidence submitted by both parties.
11. Overall, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Steven Rennie

INSPECTOR

