
Costs Decision

Site visit made on 22 June 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Costs application in relation to Appeal Ref: APP/L3815/W/21/3270825 Willowdene Nursery, Fletchers Lane, Sidhlesham

- 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 Howard for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of approval required under Article 3(1) and 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 agriculture to 1 no. large dwellinghouse (C3 Use Class).
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Decision

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

Reasons

2. Planning Practice Guidance advises that parties in planning appeals normally meet their own expenses. Costs may only be awarded against a party who has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. As is demonstrated by my decision on the appeal, I consider the Council did have legitimate grounds to refuse the application and did not therefore behave unreasonably in opposing the proposal on the grounds that it did not fall within the terms of the permitted development right under Part Q. I am satisfied that the reasons for refusal were concise and were backed up by further explanation in the case report and subsequent statement of case.
4. The appellant draws attention to the lack of technical evidence on the part of the Council to counteract the appellant's structural engineer's report. However, the argument on this issue were based less around the structural integrity of the existing glasshouse, but rather whether the proposed works exceeded those that were reasonably necessary to enable the building to be converted. I consider the Council was entitled to advance such an argument and provided a well-reasoned justification for doing so in its appeal statement.
5. The appellant has also argued that as the application was made only for a change of use under Class Q(a) and not use and operational development under Class Q(b), the question of whether prior approval should be granted under paragraph Q.2(1)(f) does not arise. For the reasons set out in its appeal statement, the Council did not agree that would be the case. Given my conclusion on the appeal, I have not had to consider this particular issue but if

I had done so then it would have been necessary for me to consider the arguments that had been put by both sides. I therefore do not consider it was unreasonable for the Council to address the issue.

6. Lastly, the appellant has criticised the Council for being inconsistent in its decision making. For the reasons set out in the appeal decision, I consider this case can be distinguished from the others on the differences between them. The Council has also made it clear that its judgement on Class Q cases (and predecessor Class MB cases) has evolved over time in response to case law and revised national planning guidance. I therefore do not accept it has been inconsistent in its approach to the appeal scheme having regard to the current context.
7. Based on the evidence before me I find that the Council has not acted unreasonably and has provided clear and justified reasons as to why it reached its decision on the application.

Conclusion

8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Guy Davies

INSPECTOR