



Costs Decision

Site visit made on 29 June 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2021

Costs application in relation to Appeal Ref: APP/W0340/W/21/3268312 Limberlost Farm, Crookham Common, Thatcham RG19 8DH

- 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 John Thorogood for a full award of costs against West Berkshire 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 (the 'GPDO') for a development described as "Application to determine whether prior approval is required for a proposed change of use of Nissen hut from agricultural to a dwellinghouse (Class C3), under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)".
-

Decision

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

Reasons

2. The Planning Practice Guidance 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 application relies on both substantive and procedural matters. The appellant cites that the Council introduced a new reason for refusal following a previous refusal of approval, that the Council failed to undertake a site visit when considering the application, that the Council failed to have sufficient regard to sworn statements and an affidavit, as well as that there are numerous errors and instances of irrelevant information contained within the Council's Statement of Case.
4. When determining a previous scheme on the site the Council refused that scheme on the basis of the level of rebuilding works and lack of ecological information. Following this, the appellant submitted the application subject of the appeal seeking to address these matters. This subsequent application was then refused due to the Council considering that the building was not subject of a qualifying agricultural use. However, in my view, this is a matter that should also have been raised at the time the first application was determined, allowing the applicant to address this matter also within the resubmitted application. Thus, I consider that including the matter of the agricultural use of the building within the refusal, when not mentioned in the determination of the first application, amounts to unreasonable behaviour due to not determining similar cases in a consistent manner.

5. Nonetheless, I am conscious that even having reviewed the information submitted by the appellant as part of the appeal, the Council remains of the view that the building is not subject to a qualifying agricultural use. As such, even if this matter had been identified earlier, and evidence provided with the second application, it is likely that an appeal would have followed in any event. Consequently, I do not find that the applicant has been put to wasted expense in preparing evidence for the appeal.
6. The Council confirm that both the application subject to the appeal and the previous application were determined without the benefit of a site visit, due to restrictions in place during the COVID-19 pandemic. Nonetheless, the Council was able to assess the application on the basis of the information that was submitted, as well as other information to which it had access. The Council asserts that it had sufficient information in order to enable it to assess the site and the proposed development, which included photographs and a structural survey. On this basis, I find nothing unreasonable in the approach taken by the Council in this respect.
7. The applicant contends that the Council gave scant regard to the evidence submitted in the form of statements and an affidavit. However, the Council clearly had regard to this information but considered that it was not sufficiently precise or unambiguous. This was a judgement that the Council was entitled to make. Whilst I have found differently on this matter, I do not find the Council unreasonable in the view it took.
8. In respect of the alleged errors and irrelevant information, the appellant sets out in his final comments what these are considered to comprise. However, there is nothing that convinces me that the information submitted by the Council is intentionally misleading or disingenuous.
9. I therefore 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.

Martin Allen

INSPECTOR