

Costs Decisions

Site visit made on 17 August 2021

by Mrs H Nicholls FdA MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22 September 2021

**Costs application A in relation to Appeal Ref: APP/D0840/W/21/3272903
Land adjoining Minster Farm, B3266 Between Mount Pleasant And
Camelford Road, Boscastle PL35 0EJ**

- 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 AR Hooper & Sons for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for change of use of agricultural building to dwellinghouse, together with associated works.
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**Costs application B in relation to Appeal Ref: APP/D0840/W/21/3272904
Land adjoining Minster Farm, B3266 Between Mount Pleasant And
Camelford Road, Boscastle PL35 0EJ**

- 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 AR Hooper & Sons for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for change of use of agricultural building to dwellinghouse, together with associated works.
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Decisions

1. The application for costs under Appeal A is refused.
2. The application for costs under Appeal B is refused.

Reasons

3. 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.
4. The PPG goes on to state that unreasonable behaviour in the context of an application for an award of costs may be either procedural – relating to the process, or substantive – relating to the issues arising from the merits of the appeal.
5. The applicant claims that, in case of both Appeals A and B, the case officer appeared to accept at face value the findings of the submitted Structural Surveys which indicated that the buildings were in a reasonable condition and suitable for conversion, but that the Statement of Case from the Appeals Officer provides a much more detailed breakdown of the Structural Surveys and indicates that the elements of the existing buildings would be minimal in comparison to the volume and extent of new build. The applicant claims that

this introduction of new evidence or arguments at a late stage of an appeal is an example of unreasonable behaviour.

6. I note that the defence of the appeals includes more detailed analyses of the works involved than was set out in the Council's Officer Reports, which looks more broadly at the suitability of the buildings for retention and effects of the works on the receiving landscape and visual receptors. The inclusion of such a detailed point of contention appears to amount to the introduction of late evidence as alleged by the appellant.
7. The applicant goes on to reason in a limited paragraph that the points raised are flawed and irrational and ultimately leaves the matter to my judgement, rather than making particularly detailed submissions on each point. In view of this, and that the appeal could not have been avoided in any case, I do not consider that the applicant has been put to any wasted expense in the pursuit of the appeals. My findings about the unsuitability of the barns and the harm to the landscape's character and appearance does not rely on the Appeal Officer's findings about the breakdown of the conversion or construction of the component parts of the building. Save for the paragraph objecting to the inclusion of this late evidence, the applicant does not appear to have spent unnecessary time at the final comments stage responding thereto.
8. In reaching this view, I am mindful that this type of behaviour is discouraged by the PPG and highlights a need for the Council to be more mindful of the approach to decision making and the defence of associated appeals. Nevertheless, in these particular cases, no expense has been wasted and I do not find that there is a reason to award either a partial or full award of costs.
9. For the reasons set out above, the applications for costs are refused.

Hollie Nicholls

INSPECTOR