



Costs Decision

Site visit made on 10 August 2021

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Costs application in relation to Appeal Ref: APP/C3105/W/20/3264358 Crockwell House Farm, Manor Road, Great Burton, OX17 1QT.

- 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 Crockwell Farm LLP for a full award of costs against Cherwell District Council.
 - The appeal was against the refusal of an application for prior approval for the change of use of an existing farm building into a single residential dwelling (Use Class C3).
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Decision

1. The application for an award of costs is allowed on a partial basis in the terms set out below.

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 appellant submits that the Council has incorrectly assessed the proposal as applying for both a change of use and building operations reasonably necessary to convert the building, and as such has refused development that should reasonably have been permitted.
4. The application for prior approval was made on application forms which specifically refer to both the change of use and for building operations within Class Q however, the forms were completed by referring to a covering letter which made it clear that only part Q(a) (change of use) was applied for. Such an approach is allowed within the amended GPDO. The fact that the Council considered the proposal as seeking building operations as well, as per Q(b), was a mistake and led in due course to the Council having to withdraw (part of) the third reason for refusal. This constitutes unreasonable behaviour.
5. On the other reasons for refusing the prior approval application I found that while I reached the conclusion that the appeal should be allowed, the Council's case has some justification. The appellant's evidence on when the agricultural use should be considered was variable and additional evidence was submitted with the appeal to show the extent of the agricultural unit. Moreover, the Council put forward some evidence of a non-agricultural use of the appeal building. In this overall context the appellant accepts that an assessment of the evidence amounts to a matter of 'fact and degree'.

6. I find that on the substance of the case the Council had some justification in its submissions and therefore it was likely that these main aspects needed to be tested on appeal. As such the 'unreasonable behaviour' I found in paragraph 4 above did not in itself result in the lodging of the appeal but was an additional part of it. The wasteful costs arising to the appellant were therefore limited to addressing the third reason for refusal as associated with Part Q(b) and not the other elements of the case. Accordingly, only a partial award of costs on this basis is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cherwell District Council shall pay to Crockwell Farm LLP the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred addressing the third reason for refusal, such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

David Murray

INSPECTOR