
Costs Decision

Site Visit made on 31 August 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/Y3940/W/21/3275752

Land at Westwood, Elms Cross, Nr Bradford-on-Avon BA15 2AL

- 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 T Earl for a full award of costs against Wiltshire Council.
 - The appeal was against a refusal to grant 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 a development proposed described as, "Class Q conversion of agricultural building".
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Decision

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

Reasons

2. 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.
3. The Council refused application Ref 21/00460/PNCOU on grounds relating to the scope of the proposed curtilage, and with respect to highway safety. The second application Ref PL/2021/04022, which came before me at appeal, was refused on grounds relating to the scope of the building operations proposed, and the level of the proposed amenity and garden curtilage to be provided for future residents of the proposal. Despite there being no change to the agricultural building itself, the Council has not explained how fundamentally different conclusions were reached in each determination, with respect to the scope of the building operations involved. Accordingly, it is clear that the Council did not determine what was effectively the same case, with respect to the building operations involved, in a consistent manner.
4. Nevertheless, as explained in my appeal decision, I also found that the building operations proposed would not be reasonably necessary for the building to function as a dwellinghouse, albeit for different reasons than those given by the Council. As such, if the Council had correctly included the scope of the building operations as a reason for refusal in relation to the first application, any resulting appeal would not have involved unnecessary or wasted expense.
5. With respect to the other examples cited in relation to the building operations proposed, in cases such as these, so much depends on the structural integrity and the physical form of the existing building, and in this respect the lack of elevational drawings provided prevents me from being able to ascertain whether the examples referred to by the appellant are comparable with the

appeal proposal. As such, nothing in the evidence provided convinces me that the Council treated this case inconsistently with those other examples cited.

6. As explained under the second main issue in my appeal decision, in determining the second application, the Council failed to apply the principle that as the GPDO¹ defines the extent of the curtilage for the purposes of Class Q of Part 3 of Schedule 2 of the GPDO, it follows that a curtilage that falls within that extent must be deemed suitable with respect to the living conditions of the intended future occupiers of the proposal. However, whilst this might constitute unreasonable behaviour, an appeal in relation to the building operations aspect for the second application would have been likely in any event. No evidence has been provided to quantify the time which might have been spent in addressing the curtilage / living conditions issue at appeal stage and accordingly I find that the inclusion of this reason for refusal has not resulted in unnecessary or wasted expense in the appeal process.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Alexander O'Doherty

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)