



Costs Decision

Site visit made on 23 November 2021

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2021

Costs application in relation to Appeal Ref: APP/N4720/W/21/3282072 Alban Villa, Bridle Path Road, Shadwell, Leeds LS17 9ND

- 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 S Tweddle for a full award of costs against Leeds City Council.
 - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 for 'Conversion of existing barns into three dwellings including removal of non-convertible barns'.
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Decision

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

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. This application for costs is made in relation to both procedural and substantive matters.
3. Although it has not been necessary for me to conclude on this matter in the substantive decision, the applicant's case on procedural grounds relates to highways matters. In response to the Transport Development Services consultation response dated 6 April 2021 on the prior approval application, the applicant provided a Technical Note which was submitted to the Council on 28 April 2021. The Technical Report assessed the impact of the proposal on Bridle Path Road and concluded that it would not have a material impact on the local highway network.
4. The officer report makes no reference to the Technical Note. Whilst the applicant was not invited by the Council to submit the document, it was clearly submitted within the context of the prior approval application and the applicant could have reasonably expected a response to that evidence. The application for prior approval was refused on 14 May 2021 on the grounds that the proposal was not permitted development, and even if this were not the case, prior approval could not be granted due to the harm associated with the transport and highways impacts of the development. It is not clear what weight, if any, was given to the evidence in the Technical Note.

5. The PPG is clear that where a local planning authority has relied on the advice of a statutory consultee in refusing an application, there is a clear expectation that that advice will be substantiated at any appeal. Whilst I note the Council's point that their Statement of Case was drafted in co-ordination with relevant consultees, including Transport Development Services, there is nothing to indicate whether or not the Council considers that the matters in the Technical Note address the highway issues referred to in the reason for refusal. It is not open to me to speculate what the outcome would have been had that process taken place, but the time that the applicant has spent on responding to this issue in their final comments represents additional expense.
6. In addition to the highway issues dealt with above, the substantive grounds for this costs appeal also refer to issues of the interpretation of curtilage in Class Q of the General Permitted Development Order (England) (2015) (GPDO). The definition of curtilage set out at paragraph X of the GPDO is a matter of interpretation, based on the specific circumstances of the case. Whilst I have arrived at a different conclusion from the Council on this point in my substantive decision, I do not consider that the Council acted unreasonably in its assessment of the issue as part of the application or the appeal process.
7. This decision relates to matters that led up to the submission of the appeal and the engagement between the applicant and the Council after the appeal had been submitted is a matter between the parties and not something on which I can comment further. Similarly, there is some confusion in the various communications between the parties on whether a pre-application submission, revised prior approval application or an appeal was the most satisfactory way to resolve the issues in this case. However, I do not consider that this amounts to a lack of co-operation by the Council in the terms set out in the PPG.
8. I note the Council's submissions that the applicant has acted unreasonably in not seeking formal pre-application advice prior to the submission of the prior approval application that is the subject of this appeal. However, I am not being asked to adjudicate on the applicant's behaviour as part of this decision, and that is the subject of a separate costs application.
9. For the reasons given above, I conclude that unreasonable behaviour has directly caused the appellant to incur unnecessary expense. A partial award of costs is justified, based on the time spent responding to the transport and highways impacts of the development in the appellant's final comments.

Costs Order

10. 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 as amended, and all other enabling powers in that behalf IT IS HEREBY ORDERED that Leeds City Council shall pay to Mr S Twedde, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to responding to highways issues in the final comments.

11. The applicant is now invited to submit to Leeds City 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.

Sarah Housden

INSPECTOR