



Costs Decision

Site visit made on 21 September 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 24 January 2022

Costs application in relation to Appeal Ref: APP/D0515/W/21/3273670 Barn adjacent to Willow Farm, Euximoor Drove, Christchurch, PE14 9LP

- 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 Fenland District Council for a full award of costs against Mr N Russell.
- The appeal was against the refusal to grant prior approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 for a change of use from agricultural building to a single storey 1-bed dwelling with storage above (Class Q (a) and (b)).

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 for costs is made on a procedural basis. Appellants are required to behave reasonably in relation to procedural matters on the appeal, for example by complying with the requirements and deadlines of the appeal process. The PPG identifies examples of unreasonable behaviour which may result in an award of costs, including delay in providing information and a lack of co-operation with the other party in providing information.
4. In support of their appeal case, the Respondent provided a further structural report dated the 8 March 2021 as part of the final comments to the appeal case. It is the Applicant's case that this should have been provided much sooner in the appeal process based upon the creation date of this document. In response, the Respondent indicates that the SR was incorrectly dated. The email to the Respondent enclosing the SR from the structural expert displays a date of the 5 July 2021 and the Respondent's evidence is that it was provided at the earliest opportunity, namely the following day. The applicant has provided no further comment in response. Taking everything into account, whilst the dating error is unfortunate, there is no substantive evidence before me that demonstrates that the Respondent delayed providing information which could have been provided at an earlier stage of the appeal process.
5. In addition, in relation to the issue of wasted costs, although the Applicant indicates that *'it may have altered the LPAs approach to the appeal'* there is no

clear evidence before me that demonstrates that the appeal would not have proceeded and that wasted costs have arisen as a consequence.

6. Accordingly, I do not consider that the Respondent has lacked co-operation nor that unreasonable behaviour has been demonstrated nor that the Respondent has caused unnecessary or wasted expense, as described in the Planning Practice Guidance. Therefore, an award of costs is not justified.

E Brownless

INSPECTOR