



Costs Decision

Site visit made on 15 March 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Costs application in relation to Appeal Ref: APP/V0510/W/21/3278432 Anglesey Farm, Lode Fen, Lode CB25 9HD

- 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 and Mrs Richard Peters for a full award of costs against East Cambridgeshire District Council.
 - The appeal was against the refusal of planning permission for the Change of use of two agricultural buildings (barns) to five residential dwellinghouses (C3)
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG outlines that an award of costs can be made on substantive grounds where a Local planning Authority has prevented or delayed a development which should clearly have been permitted. The applicants allege that the Council acted unreasonably on this basis.
4. I have allowed the appeal and the main issue centred on a matter of fact. Namely, that development on the agricultural unit had not been 'carried out' under Class A(a) of Part 6, Schedule 2 of the GPDO. However, whilst it is the case that the Council came to a different conclusion in refusing the application, it did not act unreasonably in doing so.
5. This case involves quite a unique set of circumstances, whereby I have reached firm conclusions on the basis of all of the evidence before me. However, it is apparent that much of that evidence was not before the Council at the time that they determined the application. The Council's decision was therefore based on its own observations and its understanding based on the previous planning history.
6. Indeed, the Planning Statement submitted in support of planning application reference 18/01079/FUL stated in part:

'The barn benefits from permitted development under Part 6 of the General Permitted Development Order other than its use for livestock. It is partially built.'

7. It also states:

'The principal of the building is therefore established, full planning permission is only being sought to allow the livestock use for part of the year.'

8. Whilst my conclusions mean that neither of these statements are correct, the Council cannot be accused of acting unreasonably for taking the same position as was previously advocated by the applicants in order to obtain planning permission in the first place. Indeed, I have some sympathy for the Council in this regard.
9. In summary, whilst the appeal centres on a matter of fact, the Council did not act unreasonably in coming to a conclusion on that matter of fact based on the evidence before it at the time the application was determined. Even taking the subsequent evidence provided by the applicants into account, the Council cannot be said to have acted unreasonably coming to a different view, given the unique set of circumstances in play and the apparently previously untested nature of those circumstances elsewhere.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

Luke Simpson

INSPECTOR