

Costs Decision

Site visit made on 28 June 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2022

Appeal Ref: APP/R0660/W/22/3294453

Whetstone Edge Farm, Sandbach Road, Wall Hill CW12 4TE

- 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 & Mrs J Gomez, for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for the change of use of an agricultural building to a dwellinghouse (Use Class C3) and associated operational development.
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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 applicants' case is that the Council has acted unreasonably by:
 - not seeking the advice of a qualified structural engineer;
 - having displayed little regard to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and PPG; and
 - making an assessment of the key elements of the proposal without entering the host building.
4. A Council will not always have recourse to areas of expertise in relation to all specialist subject areas that are relevant to a planning application proposal. Nor is it essential that it obtains a response from its own or a commissioned professional advisor before responding to a consultant's report. In many instances, as with the appeal proposal, a well-reasoned response can be provided in relation to relevant planning matters.
5. In this case the Council's officer report specifically drew attention to the Structural Report dated July 2021, by Mark Edwards Associates (SR). In particular it highlighted the conclusion of the report, and then went on to

identify other detailed factors. Whilst the officer's analysis was concise it constituted a reasonable response to the matters that were presented at the application stage.

6. In essence the applicant's first ground relates to a judgement about a technical planning matter, and the Council has fairly substantiated its position in that regard. My own assessment of the proposal, based on the evidence before me and as set out in paragraphs 9 to 13 of the appeal decision, accords with that of the Council. In particular I found that there are a number of unresolved questions about the barn. Consequently, the structural adequacy of the barn has not been proven, thus compliance with Paragraph Q.1. (i) of the GPDO has not been demonstrated.
7. I am satisfied that the Council substantiated its concerns making reference to the relevant parts of Class Q, the PPG in respect of the Class Q permitted development right and case law in respect of this matter, along with the information submitted by the applicants.
8. The applicant asserts that the Council officer had the opportunity to contact the agent and arrange a site visit and see the inside of the building. In this regard, whilst an inspection of the inside of the building would have been helpful, I do not consider it essential. There is no obligation that I am aware of necessitating that someone enter a building for the purposes of a site visit.
9. Moreover, I find that an external inspection of the host building, combined with views through gaps in the doors, which included large openings adjacent to the sliding bolts, provides a good visual awareness of the structural condition of the building and its component parts. The Council's evidence, which includes photographs of the interior of the host building at Appendix 8 of their statement, clearly shows that they had a good awareness of the internal space which could be considered alongside the SR. Indeed, I cannot logically agree that an internal inspection would necessarily have changed the outcome as I myself undertook one and dismissed the appeal.
10. Summarising the above, whilst I understand the applicant's motivation for applying for an award of costs and appreciate that planning may be intricate and at times frustrating, there is nothing in the evidence before me to indicate that any action or inaction taken by the Council amounts to unreasonable behaviour within the terms set out in the Planning Practice Guidance.

Conclusion

11. Having taken account of all other matters raised, and with regard to relevant elements of the Planning Practice Guidance, for the above reasons I conclude that an award of costs is not justified in this instance.

John Gunn

INSPECTOR