



Costs Decision

Site visit made on 12 July 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Costs application in relation to Appeal Ref: APP/Y3940/W/21/3286333 Golden Acres, Grittleton, Chippenham SN14 6AF

- 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 R Payne for a full award of costs against Wiltshire Council.
 - The application Ref PL/2021/07919, dated 23 July 2021, was refused by notice dated 20 September 2021.
 - 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 proposed development described as, "Prior Approval of Proposed Change of Use of Agricultural Building to Dwellinghouse (Use Class C3) and for 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. In this costs application, the applicant argues that in considering their application for prior approval under Class Q of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), the Council acted unreasonably due to not considering professional opinions, there being a lack of engagement from the Planning Officer, and the Council not considering an example provided, which resulted in unnecessary expense for the applicant in additional agent's fees for taking the application to appeal. I will deal with these 3 grounds in turn, below.
4. The associated planning appeal relates to the 3rd application under Class Q for the appeal site. The latest application before the Council included 2 professional opinions on the structural stability of the building. The Council's Officer's Report referred to the existing and proposed plans/elevations, the 2 structural reports, and the applicant's planning statement. The Council critiqued this evidence in the context of the requirements of Class Q, and their analysis of that evidence informed their view that essentially a new building would be formed as a result of the proposed works. As such, I consider that the Council did give adequate consideration to the professional opinions supplied by the applicant.

5. The Council did not produce their own evidence or engage a professional on their behalf, but I have not been pointed to any specific requirement for the Council to do so. It is unclear why the Council's Building Control Officer was consulted on the first application¹ and not on the latest application, but as the Council's assessment in their Officer's Report was robust in any event this fact is immaterial. Taking all of the above into account, I consider that the Council's behaviour was not unreasonable in relation to the first ground raised.
6. Turning to the 2nd ground raised, whilst there was an initial delay in the Council communicating with the applicant, on 17 September 2021 the Council e-mailed the applicant, providing a detailed explanation as to why the application was likely to be refused. On 20 September 2021 the applicant replied to the Council stating that they wholly disagreed with the Council's comments. Considering the fundamental disagreement between the parties, and that the application was the 3rd in relation to the same building, I consider that it was reasonable for the Council to then e-mail the applicant later the same day, not accepting any additional information.
7. Whilst the discrepancies between the structural reports were not raised by the Planning Officer until the morning of the day that the decision notice was issued, considering the fundamental disagreement between the parties as to whether the proposal fell within the ambit of Class Q, I consider that the Council acted reasonably in not delaying their decision to allow those discrepancies to be addressed.
8. Paragraph W(2)(a) of Part 3 of Schedule 2 of the GPDO provides that a prior approval application under Class Q must be accompanied by a written description of the proposed development, including any building or other operations. Therefore, the Council acted reasonably in assessing the proposal in the context of the details of conversion submitted, and the Council were not seeking information beyond that required by the GPDO.
9. In light of the above, I consider that the Council acted in accordance with paragraph 38 of the National Planning Policy Framework, which provides that, amongst other things, local planning authorities should approach decisions on proposed development in a positive and creative way. Hence, the Council's behaviour was not unreasonable in relation to the 2nd ground raised.
10. Turning to the 3rd ground raised, it would certainly have been best practice for the Council to have referred to the examples of other Class Q applications, provided by the applicant, in their Officer's Report, and to have discussed their relevance to the application in that report. However, even if I were to find that this constituted unreasonable behaviour, as explained in detail in my appeal decision the Council were correct to refuse the application for prior approval, meaning that no unnecessary or wasted expense has occurred and an appeal would have been the next step in seeking a resolution to the dispute. Thus, the Council's behaviour did not result in any unnecessary or wasted expense on the 3rd ground raised.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been

¹ 20/11240/PNCOU

demonstrated. Accordingly, I determine that the costs application should fail, and no award is made.

Alexander O'Doherty

INSPECTOR