
Costs Decisions

Site visit made on 12 October 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Costs application A in relation to Appeal Ref: APP/W1145/W/22/3292348 Beech House, Halwill EX21 5UG

- 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 Down for a full award of costs against Torridge District Council.
 - The appeal was against the refusal to grant approval under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an agricultural building to 2 no. dwellinghouses and associated building operations.
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Costs application B in relation to Appeal Ref: APP/W1145/W/22/3292349 Beech House, Halwill EX21 5UG

- 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 Down for a full award of costs against Torridge District Council.
 - The appeal was against the refusal to grant approval under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an agricultural building to 1 no. dwellinghouse and associated building operations.
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Decision Costs Application A

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

Decision Costs Application B

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

Reasons

3. The Planning Practice Guidance advises that costs may be awarded where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. The appellant's case for an award of costs in relation to applications A and B relies to a substantial extent on the Council refusing development which in the appellant's view should clearly have been permitted, did not produce evidence to substantiate the reasons for refusal, acted contrary to established case law, did not determine similar cases in a consistent manner and did not discourage, in the appellant's view, an unnecessary appeal.

5. Whilst the reasons for refusal set out on the decision notice were not easy to understand on first reading, the Council had produced an officer report and statement of case, in respect of both appeals which were detailed, clearly articulated and robust. In addition, they sought the advice of an agricultural consultant to provide evidence in support of their case. As such, whilst I may not have found in their favour in respect of Class Q.1.(g) the GDPO, I do not find that the Council were unreasonable in pursuing their reason for refusal at appeal nor that they failed to substantiate the reasons for refusal.
6. Similarly, for the reasons set out in my appeal decision, I do not find that the Council failed to determine the applications in a consistent manner. The appellants own evidence includes many examples of submissions under Class Q of the GPDO to the Council and other authorities. Each one of the cases was accompanied by a structural assessment and/or detailed schedule of works. No such information was provided in respect of the appeal proposals. Paragraph W.(3) is clear that the onus is on the appellant to ensure that sufficient information is provided to the Council so that it may establish whether the proposal complies with any conditions, limitations or restrictions. It is the absence of this information that lead to the Council's second reason for refusal in respect of Appeal B.
7. In light of this, it is not surprising that the Council continued to defend its position at appeal and in doing so, I do not find that they acted unreasonably.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR